IMT Nuremberg Archives

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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany on 15 January, 1946, 1000-1300, Lord Justice Lawrence presiding.

THE PRESIDENT: Do any of the other Counsel for the Defense wish to cross-examine this witness (referring to Peter-Joseph Heisig, interrogated the day previous)?

(There was no response).

Then, Colonel Phillimore, do you wish to re-examine?

COLONEL PHILLIMORE: No, my Lord, I have no further questions.

THE PRESIDENT: Then the witness can go.

COLONEL PHILLIMORE: Before I call my second witness, Karl-Heinz Moehle, an affidavit by him is the next document on the document book.

KARL-HEINZ MOEHLE took the stand.

BY THE PRESIDENT:

Q What is your name?

A Karl-Heinz Moehle.

Q Will you repeat this oath: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

THE PRESIDENT: You can sit down, if you wish.

BY COLONEL PHILLIMORE:

Q Karl-Heinz Moehle, you held the rank of Corvette Captain in the German Navy?

A Yes, sir.

Q Did you serve in the German Navy since 1930?

A Yes, sir.

Q Will you tell the Tribunal what decorations you hold?

A I hold the General Service Cross, the Iron Cross Second Class, the Iron Cross First Class, the Ritter Cross, and the German Cross in Silver.

Q Did you swear to an affidavit covering a statement you have made on the 21st of July, 1945?

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A Yes, sir.

Q I show you that document and ask you to say whether that is your affidavit.

A (Looking at paper) Yes, this is my affidavit, sworn to.

COLONEL PHILLIMORE: I put that document in, which is 382 PS, and it becomes GB 202.

Q In the autumn of 1942 were you head: of the Fifth U-Boat Flotilla?

A Yes, I was.

Q Were you stationed at Kiel?

A Yes, sir.

Q How long did you hold that appointment altogether?

A For four years.

Q Was that from June 1941, until the capitulation?

A That is correct.

Q What were your duties as Commander of that Flotilla?

A My main duties as Chief covered the fitting out of U-Boats which were to be sent to the front, and giving them the orders as well as necessary equipment.

Q Had you any special responsibility to U-Boat Commanders in respect of the orders?

A Yes, sir, I was responsible for the U-Boat Commanders getting all the orders and knowing the latest orders of the U-Boat Command.

Q Had you any responsibility in explaining the orders?

A The orders of the U-Boat Command were always very clear and unambiguous If there were any ambiguities I used to clarify these ambiguities through the Command itself.

Q Did you personally see Commanders before they went out on patrol?

A Yes, each Commandant before leaving for the front participated in briefing.

Q I will go back, if I may, for two or three questions. Did you personally see Commanders before they went out on patrol?

A Yes, sir, each commandant before sailing on patrol participated in a briefing session at my office.

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Q And what did that briefing session consist of? Were there any questions on the orders?

A Yes, sir, all experiences of previous patrols and any questions of equipment, fitting out, were discussed with the Commander at that session. Also, the Commanders had an opportunity at the briefing to clarify any ambiguities which might have existed in their minds.

Q Apart from your briefing sessions, did Commanders also go to Admiral Doenitz's headquarters for briefing?

A As far as that was possible, it was done, especially from the moment on that the U-Boat Commander had transferred his command post from Paris to Berlin.

Q Did you remember an order in the autumn of 1942 dealing with lifeboats

A Yes, sir; in September, 1942, I received a message for the Commanders at sea, and it dealt with that question.

Q I show you this document -- My Lord, that is the exhibit I have already put in as GB 199 -

THE PRESIDENT: What other number has it?

COLONEL PHILLIMORE: It is D 630.

Q Is that the order you are referring to?

A Yes, that is the order?

Q From the time when you were captured until last Friday had you seen that order?

A No, sir.

Q It follows, I think, that the account of the order in your statement was given from recollection?

A Yes, sir, only by recollection.

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Q Now, after you got that order did you go to Admiral Doenitz's headquarters?

A Yes, at my next visit at headquarters. I there spoke to Corvette Captain Kuppisch who was in charge, and took the opportunity to discuss that order with him.

Q Will you tell the Tribunal what was said at that meeting?

A At that meeting I asked Corvette Captain Kuppisch how the ambiguity contained in that order -- or I might say, lack of clarity -- should be cleared up and defined. He explained the order on that occasion by two illustrations.

The first example was that of a U-Boat in the Bay of Biscay. It was sailing onpatrol when it sighted a raft carrying survivors of a B ritish plane. The Commander had an opportunity to rescue this airplane crew, but it was considered perfectly useless to rescue them and bring them home, especially as they were from an enemy airplane. He avoided the raft by making a wife circle and continued on his mission. After he returned from his mission he reported this incident to the flag officer of U-Boats and he was thereupon reproached by the staff, for the reason that if he was unable to bring these specialists home it would have been the right thing to do to fight this crew, as it could be expected that in less than twenty-four hours the raft would be found and rescued by British reconnaissance planes.

Q I don't quite get what you said would have been the correct action to take. You were saying the correct thing to do would have been --

A Since it was not possible to rescue the airplane specialists, to fight them, as it could be expected that this airplane crew would be found and rescued in a short time by British reconnaissance planes and it could be that in the meantime they could be on another mission and destroy one or two German boats. The second example --

Q Did he give you any second example?

A Yes, sir. The second example I am going to recount now. Example 2.

During the first month of the U-Boat war against the United States a great quantity of tonnage sunk -- I don't recollect the exact number -- had been sunk in the shallow waters off the American coast. In these sinkings the crews were for the greater part rescued, because of the

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proximity of land. That was exceedingly regrettable, as the merchant marine not only required tonnage but also crews, and these crews were able in the meantime to man newly built ships.

Q You have told us about the ambiguity of the order. Are you familiar with the way Admiral Doenitz worded his orders?

A I don't quite understand the question.

Q Are you familiar with the way that Admiral Doenitz normally worded his orders?

A Yes. In my opinion, the order -- it had been necessary only to read the reference -- the reference is made again or pointed out again that rescue measures should not be taken for reasons of U-Boat safety. In this way the order wuld have been worded -- if only rescue measures had been forbidden.

Q Are you saying that if it had been intended only to prohibit rescue measures it would have been sufficient to refer to the previous order?

A Yes, sir, that would have been enough.

Q Was that previous order also marked "top secret"?

A I don't remember that exactly.

Q What was the propaganda at the time with regard to crews?

A The propaganda at that time said that the enemy had great difficulties --

THE PRESIDENT: The question as to the propaganda at a certain time is far too wide a question.

COLONEL PHILLIMORE: If your Honor pleases, I don't press it.

Q From your knowledge of the way orders were worded, can you tell the Tribunal what you understood this order to mean?

A The order said, in my own opinion, that rescue measures were prohibited, that on the other hand it was desirable that in the case of sinkings of merchantmen there be no survivors.

Q And was it because you understood this to be the meaning that you went to Admiral Doenitz's headquarters?

A I did not go only for the reason of this order to the headquarters of the Flag Officer U-boats, but these visits took place rather frequently in order to discuss also other questions and in order to have the opportunity to get information on ideas of the U-boat command and to keep

abreast with developments, as I had to transmit them to the commanders.

Q Now, did you brief commanders on this order?

A At these briefing sessions I read this radio message to the commanders without any commentary. In some few instances commanders have inquired of me what the order meant. In such cases I gave the commander the lead inquiry. I have read to him the two examples. However, I pointed out that the Flag Officer U-boat could not officially give him such an order, and that he had to act according to his own conscience.

Q Do you remember an order about rescue ships?

A Yes, sir.

Q Can you say what was the date of that order?

A I don't remember the exact date. However, I think the order was given at the same time as the order of September 19, 1942.

COL. PHILLIMORE: May the witness see the document D-663 which I put in yesterday?

THE PRESIDENT: Yes.

COL. PHILLIMORE: It is the German copy of the document that I am showing him;

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the original is being held.

THE WITNESS (After examining document): Yes, sir, I recognize that order.

Q You will note that the date on that document is the 7th of October 1943.

A Yes, this order is laid down there in the general Operation Order "Atlantic" No. 56. According to my recollection, this order was issued previously than the Operational Order 54. It covers the general radius of instructions.

THE PRESIDENT: Col. Phillimore, is that order in the index here?

COL. PHILLIMORE: Yes, My Lord, that is the document 663, which I put in yesterday as GB-200. If it is ommitted from the index, your Lordship will remember it is the document we just received, as I explained yesterday.

THE PRESIDENT: Where does it come in?

COL. PHILLIMORE: It comes in after D-6630.

THE PRESIDENT: Thank you.

COL. PHILLIMORE: Your Lordship will remember the order; it deals with rescue ships attached to convoys, and it was on the last sentence that I replied.

THE PRESIDENT: Yes, I only wanted to get the words of it.

COL. PHILLIMORE: Yes, sir. My Lord, I have the original here now if it is thought necessary that the witness should see it, but he has seen a copy.

Q Do you remember an order about entries in logs?

A Yes, sir. At the time, the exact date I don't remember, it had been ordered that sinkings and other acts which were in contravention of international conventions should not be entered in the log but should be reported orally after return to the home port.

Q Will you care to say why it is that you are giving evidence in this case?

A Yes, sir; because when I was taken prisoner it was claimed that I was the author of these orders, and I don't want to have this charge connected with my name.

COL. PHILLIMORE: My Lord, the witness is available for examination.

THE PRESIDENT: Does any counsel for any defendant wish to ask the witness any questions?

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DR. OTTO KRANZBUEHLER (Counsel for Admiral Doenitz): I am Dr. Kranzbuehler, counsel for Doenitz.

Q Corvette Captain Moehle, since when have you been in the U-boat arm?

A Since the end of 1936.

Q Do you know personally Grand Admiral Doenitz?

A Yes.

Q Since when?

A Since October, 1937.

Q Do you see him here in this room?

A Yes.

Q Where?

A To the left in the rear.

Q Do you know that Grand Admiral Doenitz is an Admiral who was never to be spoken to by his subordinates?

A No, he could be reached by everybody at any time.

Q Have you been commander on a U-boat yourself on missions?

A Yes, on nine missions.

Q From when to when?

A From the beginning of the war until --

Q How many ships did you sink?

A I sank twenty ships.

Q After sinking ships, have you destroyed the rescue possibilities or have you fired at the survivors?

A No, I had no orders to do that.

Q Did you have an order to do that?

A No.

Q Was it dangerous to the U-boat? Had the danger passed after the attack by the U-boat?

A No, the danger to the U-boat had no passed after the attack was over.

Q Why not?

A Because in most instances when a ship is sunk, the ship is in a position to send a radio message with its position, and therefore in a last minute is able to get other ships onto the spot.

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Q Was there a principle in the U-boat command to the effect that fighting comes before rescuing?

A I never heard of that principle in that formulation.

Q Prior to the order of September, 1942, do you know of other orders in which the rescuing was prohibited if there was danger to your own boat?

A Yes, but I do not know when and in which documents this order has been put down. It was ordered that the safety of your own boat was your main concern.

Q Was it ordered only once, or on several instances?

A That I can't say.

Q Do you know that the order of September, 1942, was given in consequence of an incident in which German U-boats, contrary to orders, had undertaken rescue measures?

A Yes, sir.

Q And the U-boats were then attacked by Allied aircraft?

A Yes, sir.

Q A minute ago you classified the order of September, 1942 as ambiguous.

A Yes, sir.

Q You interpreted it to the commanders in the sence that the order should comprise the destruction of rescue facilities and of its crews?

A No, not quite, since I gave the two examples to the commanders only if they made an inquiry, and they themselves could draw that conclusion from those two examples.

Q In which sentence of the order do you see a hidden request to kill survivors? Just a second, I shall read to you a sentence of the order. I read from the document D-630: "1. No attempt of any kind must be made at rescuing members of ships sunk, and this includes picking up persons in the water and putting them in lifeboats, righting capsized lifeboats and handing over food and water. These are absolutely forbidden."

Do you see it in this sentence?

A No.

Q "All rescue measures contradict the primitive demands of warfare that ships and crews should be destroyed."

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Do you see that in this sentence?

A Yes.

Q Does that sentence contain anything as to the destruction of shipwrecked sailors?

A No, of crews.

Q In the order, at the end of the sentence: "Be harsh". Have you

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seen that sentence there for the first time?

A. No.

Q. Was that sentence used by the Flag Officer U-boats in order to harden the commanders and their crews against themselves?

A. Yes

Q. You have discussed that order with Corvette Captain Kuppisch?

A. Yes.

Q. Do you remember that really, exactly and correctly?

A. As far as I can rely upon my recollection after such a long time.

Q. Where did that conference take place?

A. At the staff of the Flag Officer U-boats, probably in Paris.

Q. What position did Kuppisch occupy at the time?

A. As far as I can remember, he was the man in charge of enemy convoys, but I couldn't say that with any definiteness.

Q. The superior officer of Kuppisch was Hessler?

A. As to the superior, one couldn't say that; Hessler was on the same level as Kuppisch.

Q. Was Kuppisch's superior Admiral Goth?

A. Yes, in his activity as Chief of Staff.

Q. Have you spoken to Hessler or Admiral Goth or with the Grand Admiral himself? Have you discussed the interpretation to be given to that order?

A. Whether it was with Hessler, I do not remember, but certainly not with Goth or the Grand Admiral himself.

Q. You said Capt. Kuppisch had told you of the opinion which was prevalent at the staff as far as the attitude of the flotilla chiefs was concerned?

A. Yes.

Q. Did he tell you that that was the opinion of the Grand Amiral himself?

A. I don't remember that. It is too far back. It was for us, the chiefs of the flotillas, of course, a matter of course, that if a responsible member of the staff uttered an opinion, that that was the official opinion of the Flag Officer U-boats. Normally such conferences took place if the other mem-

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bers of the staff didn't want to bind themselves and couldn't give a responsible answer. Then it was referred to Admiral Goth.

Q. Didn't you know that the affair with these flyers in the Bay of Biscay had really been just the opposite?

A. I don't understand it.

Q. I continue: that the commander had been reproached because he didn't bring home these flyers after terminating his mission and coming back?

A. No, I don't remember that.

Q. In that first example which you gave or which you mentioned, were you told by Corvette Captain Kuppisch that the shipwreck and rescue facilities should be destroyed near the American coast?

A. No, he only said it was regrettable that the crews had been rescued.

Q. And you concluded from that that it was desirable that the shipwrecked should be killed?

A. I didn't draw any conclusions since I passed on these examples without any commentary.

Q. Do you know the standing orders of the Flag Officer U-boats? Do they contain the general principles of U-boat warfare?

A. Yes.

Q. Are there to be found in the standing orders any orders in which the killing of shipwrecked sailors or the destruction of rescue facilities is ordered or recommended?

A. As far as I know, no.

Q. What kind of secrecy was attached to these standing orders?

A. As far as I remember, "Geheime Kommandosache" -- Top Secret.

Q. Do you remember that in Standing Order 511, the following was ordered:-

DR. KRANZBUEHLER: Mr. President, I read from an order which I shall submit in evidence later on. I cannot do it yet beacuse I have not as yet the original in hand.

Q. (Reading) "Standing Order of Flag Officer U-boats No. 511, 20th of May, 1943. Taking on board of officers of subken ships.

"

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"1. As far as conditions of accomodation allow on board, Captains and Chief Engineers of sunk ships are to be brought in. The enemy tries to contravene this intention and has issued the following order: 'a. Masters are not allowed to make themselves known if questioned, but should if possible push on other sailors selected especially for this purpose. b. Crew has to state that Masters and Chief Engineers remained on board in spite of energetic questioning. If it is not possible to find out the Masters or the Chief Engineers, then other ship officers should be taken aboard.'"

I skip No. 2 and pass on to No. 3 -- no, I am going to read No. 2. as well.

"No bringing in is allowed of masters and officers of neutral ships, which, according to Standing Order No. 101, can be sunk (e.g., Swedish ships outside Goeteborg traffic), because internment of these officers would contravene international law.

"3. Ship officers cannot be taken prisoners. Otherwise, members of the crew should be taken along as far as accommodation facilities and further operations pernit. The purpose is interrogation of prisoners for military and propagandistic purposes.

"4. In the case of sinking single cruising destroyer, corvette, or trawler, try in all events to take prisoners, if that can be done without endangering the boat. Interrogation, at interrogation camp, can produce valuable hints as to anti-submarine tactics and weapons of the enemy; and the same applies to air crews of shot down planes."

BY DR. KRANZBUEHLER:

Q. Do you know that order?

A. The order seems familiar to me.

Q. Do you know the order 513?

"Standing order of Flag Officer, U-Boats, 1 June 1944, Bringing in of Prisoners.

"1. Statements of prisoners are most certain best source for interrogation regarding enemy tactics,

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weapons, location sets and location methods. Prisoners from planes and destroyers can be put to use of the greatest importance. Therefore, as far as possible, without endangering the boat, do the utmost to take such prisoners.

"2. As prisoners are extremely willing to talk under the impression of being captured, interrogate them at once on board. This is of special interest: In which manner the location of U-Boats is done by aircraft, whether by radar or by passive location; for instance, by ascertaining, through electricity or heat, the location of the boat. Report prisoners taken in order to hand them over to returning boats."

Do you know that order? Have you noticed and tried to clarify a contradiction between these orders concerning the rescue of air crews in each instance and the passing on of your story about the construction of air crews?

A No, not in that. In the order of September 1942 it was also said that the order remains valid as to the taking of prisoners the master and the chief engineer.

Q Did you hear of any instance in which a U-Boat has brought home masters and chief engineers but has killed the rest of the crew?

A No.

Q Do you consider it possible at all that such an order can be given -- that is, that part of the crew should be rescued under orders and the rest of the crew should be killed?

A No, sir. Such an order cannot be given.

Q Did you hear that, on the basis of the other instructions you gave, any commander has destroyed rescue facilities or has killed shipwrecked sailors?

A No.

Q Was it permissible to attack neutral vseels outside of the blockade region?

A Only in case they were not marked according to specifications.

Q Was the flag office, U-Boats, very severe in enforcing these orders concerning neutral ships?

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A Since such cases are not known to me, I cannot say anything on that subject.

Q Do you know that the commanders were threatened with court-martial if they did not obey the orders which had been given for the protection of neutrals?

A Yes; I remember one case which happened in the Caribbean Sea.

Q Do you remember an order of 1944 in which the stopping of neutral ships for investigation was ordered?

A Yes, but I do not remember the date. It was ordered that in particular Spanish and Portugese ships in the North Atlantic should be stopped and searched.

Q Have you passed on that order to the commanders?

A As far as I recollect, this order was given in writing and is contained in one of the official collections of orders. I have passed on orders to commanders only in such instances where they were not contained in a collection of orders.

Q In passing that order on, have you made an addition as to whether that order should be executed or not?

A Yes, I remember that I said -- when that order came by radio and the commanders did not know of it yet -- that they should be exceedingly careful, as far as the stopping of neutrals was concerned, since there was always the danger that a neutral ship could, by radio, report the position of the U-Boat. And owing to the air superiority of the enemy in the North Atlantic, it was always safer or better if the U-Boat was not forced to such stopping.

Q Had you orders as far as that addition was concerned?

A No. As far as I remember, one of the members of the staff -- I think it was Captain Hessler -- told me that he emphasized that all stopping of ships, also neutrals, involved a considerable endangering of the boat.

Q Because of the air superiority?

A Yes.

Q Your attention has been called to the order concerning the rescue ships. You remember that?

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A Yes.

Q Were these rescue ships recognized under international law as hospital ships, with special markings?

A As far as I know, no.

Q Which orders had been issued concerning hospital ships?

A Where these orders were laid down -- I do not remember whether in writing or not; I only remember that the flag office, U-Boat, very often called the attention of the commanders to the fact that hospital ships should be respected under all circumstances.

Q Do you know of any case in which a hospital ship was attacked by U-Boats?

A No; I don't know of such a case.

Q If the BDU had been interested in contravention of international law to destroy helpless human beings, would, in such a case, the destruction of hospital ships have been an excellent measure?

A Without any doubt.

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DR. KRANZBUEHLER: No further questions.

THE PRESIDENT: Does any other Defense Counsel wish to cross-examine this witness?

(No response.)

BY THE TRIBUNAL (Judge Biddle):

Q Did you ever save any of the survivors of the vessels that you torpedoed?

A No, sir. I have not been in a position to do that owing to the circumstances, the military circumstances, of the case.

Q You mean it was dangerous to your boat to do it?

A Not only that. A great part of the sinkings which I did took place in a convoy or at high sea, rough sea, so that it was impossible to undertake any rescue measures.

THE TRIBUNAL (Judge Biddle): That is all.

THE PRESIDENT: Colonel Phillimore, do you wish to re-examine?

COLONEL PHILLIMORE: My Lord, I have about three questions.

THE PRESIDENT: Very well.

BY COLONEL PHILLIMORE:

Q When you were a U-boat commander yourself, what were the orders with regard to rescue?

A At the beginning of the war we had been told that the safety of your own boat was the decisive thing, and that the boat should not be endangered by rescue measures. Whether these orders had been laid down in writing at the outbreak of the war I do not remember.

Q When you got this order of the 17th of September, 1942, did you take it merely as prohibiting rescue or as going further?

A When I received that order I noticed that it was not unambiguous, as orders of the BDU normally were, that in this order there was a definite ambiguity.

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Q You haven't answered my question. Did you take the order to mean that a U-boat commander should merely abstain from rescue measures, or as something further?

A I interpreted that order to go further in some way, although not as an order but that it was considered desirable.

Q The instance you were given about the Bay of Biscay, had you any knowledge of the facts of that incident?

A No, the surrounding circumstances of that case were not known to me.

Q What were the actual words with which you passed that order on to commanders?

A I told the commanders, literally the following. "We approach now a very delicate and difficult chapter; it is the question of the treatment of life boats. The flag officer U-boats has issued the following radio message in September, 1942.' Thereupon I read the radio message of September 1942 in full.

In most instances the chapter was closed thereupon; no commander had any question to ask. In some few instances the commanders asked, "How should that order be interpreted?" In that case I gave the two examples as a means of interpretation. And then I added that officially such a thing cannot be ordered, that everybody has to reconcile with his own conscience.

Q Do you remember any comment being made by commanding officers after they had read the order?

A Yes, sir. Several commanders, following the reading of the order without any commentary being given, uttered the opinion, "That is very clear, but damned hard."

COLONEL PHILLIMORE: My Lord, I have no further questions.

THE PRESIDENT: The Tribunal will adjourn for ten minutes.

(Whereupon a recess was taken from 11.20 to 11.30 hours.)

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COL. PHILLIMORE: My Lord, I would now put before the Tribunal two cases where that order of the 17th of September, 1942, was apparently put into effect. The first case is set out at the next document in the Document Book, which is D-645. My Lord, I put that document in and it becomes GB-203.

THE PRESIDENT: Which document does it follow?

COL. PHILLIMORE: It follows --

THE PRESIDENT: I have got it.

COL. PHILLIMORE: My Lord, it is a report of the sinking of a steam trawler, the "Noreen Mary," which was sunk by U-247 on the 5th of July, 1944. The first page of the document contains an extract from the log of the U Boat. The time reference 1943 on the document is followed by an account of the firing of two torpedoes which missed, and then, at 2055, the log reads:

"Surfaced.

"Fishing Vessels: (Bearings given of 3 ships).

"Engaged the nearest. She stops after three minutes."

Then there is an account of a shot fired as the trawler lay stopped, and then, the final entry:

"Sunk by flak, with shots into her side. Sank by the stern."

THE PRESIDENT: Why is it entered as 5. 7. 1943 ?

COL. PHILLIMORE: My Lord, that is an error.

THE PRESIDENT: An error?

COL. PHILLIMORE: It is a typing error. I should have pointed it out.

My Lord, the next page of the document is a comment on the action by the U-Boat command, and the last line reads:

"Recognized success: Fishing vessel "Noreen Mary" sunk by flak."

And then there is an affidavit by James MacAlister, who was a deck-hand on board the "Noreen Mary" at the time of the sinking. My Lord, reading the last paragraph on the first page of the affidavit. He has dealt earlier with having seen the torpedo tracks which missed the trawler. The last paragraph reads:

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"At 2110 hours, while we were still trawling, the submarine surfaced on our starboard beam, about 50 yards to the northeast of us, and without any warning immediately opened fire on the ship with a machine gun. We were 18 miles west from Cape Wrath, on a north-westerly course, making 3 knots. The weather was fine and clear, sunny, with good visibility. The sea was smooth, with light airs."

My Lord, then there is an account of the firing in the next paragraph, and then, if I might read from the second paragraph on page 2.

THE PRESIDENT: Why not read the first?

COL. PHILLIMORE: If your Lordship please:

"When the submarine surfaced I saw men climbing out of the conning tower. The skipper thought at first the submarine was British, but when she opened fire he immediately slackened the brake to take the weight off gear, (that is, the trawler), and increased to full speed, which was about 10 knots. The submarine chased us, firing her machine gun, and with the first rounds killed two or three men, including the skipper, who were on deck and had not had time to take cover. The submarine then started using a heavier gun from her conning tower, the first shot from which burst the boiler, enveloping everything in steam and stopping the ship.

"By now the crew had taken cover, but in spite of this all but four were killed. The submarine then commenced to circle round ahead of the vessel, and passed down her port side with both guns firing continuously. We were listing slowly to port all the time, but did not catch fire.

"The Mate and I attempted to release the lifeboat, which was aft, but the Mate was killed whilst doing so, so I abandoned the attempt. I then went below into the pantry, which was below the waterline, for shelter. The ship was listing more and more to port, until finally at 2210 she rolled right over and sank, and the only four men left alive on board were thrown into the sea. I do not know where the other three men had taken cover during this time, as I did not hear or see them until they were in the water.

"I swam around until I came across the broken bow of our lifeboat, which was upside down, and managed to scramble on top of it. Even now the

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submarine did not submerge, but deliberately steamed in my direction and when only 60 to 70 yards away fired directly at me with a short burst from the machine gun. As their intention was quite obvious, I fell into the water and remained there until the submarine ceased firing and submerged, after which I climbed back on to the bottom of the boat. The submarine had been firing her guns for a full hour."

My Lord, then the affidavit goes on to describe the Second Engineer and others attempting to rescue themselves and to

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help each other, and then they were picked up by another trawler.

The last paragraph on that page:

"Whilst on board the 'Lady Madeleine' the Second Engineer and I had our wounds dressed. I learned later that the Second Engineer had 48 shrapnel wounds, also a piece of steel wire 2½ inches long embedded in his body." And there is a sentence on which I don't rely, and the last sentence:

"I had 14 shrapnel wounds."

My Lord, and then the last two paragraphs of the affidavit:

"This is my fourth wartime experience, having served in the whalers 'Sylvester' (mined) and 'New Seville' (torpedoed), and the Trawler 'Ocean Tide', which ran ashore.

"As a result of this attack by U-boat, the casualties were six killed, two missing, two injured."

My Lord, the next document, D-647, I put in as GB-204. My Lord, this is an extract from a statement given by the Second Officer of the ship "Antonico", torpedoed, set afire, and sunk, on the 28th of September 1942, on the coast of French Guiana. The Tribunal will observe that the date of the incident is some eleven days after the issue of the order. My Lord, I would read from the words "that the witness saw the dead", slightly more than halfway down on the first page. An account has been given of the attack on the ship, which by then was on fire:

"That the witness saw the dead on the deck of the 'Antonico' as he and his crew tried to swing out their lifeboat; that the attack was fulminant, lasting almost 20 minutes; and that the witness already in the lifeboat tried to get away from the side of the 'Antonico' in order to avoid being dragged down by the same 'Antonico' and also because she was the aggressor's target; that the night was dark, and it was thus difficult to see the submarine, but that the fire aboard the 'Antonico' lit up the locality in which she was submerging, facilitating the enemy to see the two lifeboats trying to get away; that the enemy ruthlessly machine-gunned the defenseless sailors in No.2 lifeboat, in which the witness found himself, and killed the Second Pilot Arnaldo de Andrade de Lima, and wounded three

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of the crew; that the witness gave orders to his company to throw themselves overboard to save themselves from the bullets; in so doing, they were protected and out of sight behind the lifeboat, which was already filled with water; even so the lifeboat continued to be attacked. At that time the witness and his companions were about 20 metres in distance from the submarine."

My Lord, I haven't got the U-boat's log in that case, but you may think that, in view of the order with regard to entries in logs, namely that anything compromising should not be put in, it would be no more helpful than in the case of the previous incident.

My Lord, the next document, D-646/a, I put in as GB-205. It is a monitored account of a talk by a German Naval War Reporter on the long wave propaganda service from Friesland. The broadcast was in English, and the date is the 11th of March, 1943. It is, if I may quote:

"Santa Lucia, in the West Indies, was an ideal setting for romance, but nowadays it was dangerous to sail in these waters - dangerous for the British and Americans and for all the colored people who were at their beck and call. Recently a U-boat operating in these waters sighted an enemy windjammer. Streams of tracer bullets were poured into the sails and most of the Negro crew leaped overboard. Knowing that this might be a decoy ship, the submarine steamed cautiously to within 20 yards, when hand grenades were hurled into the rigging. The remainder of the Negroes then leaped into the sea. The windjammer sank. There remained only wreckage. Lifeboats packed with men, and sailors swimming. The sharks in the distance licked their teeth in expectation. Such was the fate of those who sailed for Britain and America."

My Lord, the next page of the document I don't propose to read. It is an extract from the log of the U-boat believed to have sunk this ship. It was, in fact, the U-105.

My Lord, I read that because, in my submission it shows that it was the policy of the enemy at the start to seek to terrorize crews, and it is a part with the order with regard to rescue ships and with the order on the destruction of steamers.

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If I might say so, in view of the cross-examination, the Prosecution do not complain of rescue ships being attacked. They are not entitled to protection. The point of the order was that they were to be given priority in attack, and the order, therefore, is closely allied with the order of the 17th of September 1942. In view of the Allied building program, it had become imperative to prevent the ships being manned.

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My Lord, I pass to the period after the defendant had succeeded the defendant Raeder. My Lord, the next document is 2098-PS. It has been referred to but not, I think, put in. I put it in formally as GB-206. My Lord, I won't read it. It merely sets out that the defendant Raeder should have the equivalent rank of a minister of the Reich, and I ask the Tribunal to infer that on succeeding Raeder the defendant Doenitz would presumably have succeeded to that right.

THE PRESIDENT: This is from 1938 onward?

COL. PHILLIMORE: From 1938 onward.

The next document, D-648, I put in as GB-207. It is an affidavit by an official, or rather it is an official report certified by an official of the British Admiralty. The certificate is on the last page, and it sets out the number of meetings, the dates of the meetings, and those present, on the occasion of meetings between the defendant Doenitz or his representative with Hitler from the time that he succeeded Raeder until the end. The certificate states:

"I have compiled from them"--that is, from captured documents--"the attached list of occasions on which Admiral Doenitz attended conferences at Hitler's headquarters. The list of other senior officials who attended the same conferences is added when this information was contained in the captured documents concerned. I certify that the list is a true extract from the collective documents which I have examined, and which are in the possession of the British Admiralty, London."

My Lord, I won't go through the list. I would merely call the Tribunal's attention to the fact that either Admiral Doenitz or his deputy, Konteradmiral Voss, was present at each of these meetings; and that amongst those who were also constantly there were the defendants Speer, Keitel and Jodl, Ribbentrop and Goering, and also Himmler or his Leutnants, Fegelein or Kaltenbrunner.

My Lord, the inference which I ask the Tribunal to draw from the document is that from the time that he succeeded Raeder, this defendant was one of the rules of the Reich and was undoubtedly aware of all decisions, major decisions of policy.

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My Lord, I pass to the next document, C-178. That has already been put in as United States Exhibit 544. It is an internal memorandum of the Naval War Staff, written by the division dealing with international law to another division, and the subject is the order with regard to the shooting of Commandos, of the 18th of October, 1942, with which the Tribunal are, I think, familiar.

The point of the document is that some doubt appeared to have arisen in some quarters with regard to the understanding of the order, and in the last sentence of the memorandum it is suggested, "As far as the Navy is concerned, it remains to be seen whether or not this case should be used to make sure, after a conference with the Commander-in-Chief of the Navy, that all departments concerned have an entirely clear conception regarding the treatment of members of commando units."

My Lord, whether that conference took place or not I do not know. The document is dated some 11 days after this defendant had taken over from the defendant Raeder.

But the next document in the book, D-649, which I put in as GB-208, is an instance of the Navy in July of that year, July 1943, handing over to the SD for shooting Norwegian and British Navy personnel, whom the Navy decided came under the terms of the order. My Lord, it is an affidavit by a British Barrister-at-Law who served as judge advocate at the trial of the members of the SD who executed the order.

Paragraph 1 sets out that the deponent was judge advocate at the trial of ten members of the SD by a military court held at the Law Courts, Oslow, Norway, which sat on Thursday, 29 November 1945, and concluded its sitting on Tuesday, 4 December 1945.

My Lord, the next paragraph sets out who convened the court and the name of the prosecuting and defending counsel, and the third paragraph states:

"The accused were charged with committing a war crime, in that they at Ulven, Norway, in or about the month of July 1943, in violation of the laws and usages of war, were concerned in the killing of"--and then there follows the names of six Norwegian personnel of the Norwegian Navy, including one officer, and one leading telegraphist of the Royal Navy, prisoners of war.

I might read from paragraph 4:

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"There was evidence before the Court which was not challenged by the Defense that Motor Torpedo Boat No. 345 set out from Lerwick in the Shetlands on a naval operation for the purpose of making torpedo attacks on German shipping off the Norwegian coast, and for the purpose of laying mines in the same area. The persons mentioned in the charge were all the crew of the Torpedo Boat."

Paragraph 5: "The defense did not challenge that each member of the crew was wearing uniform at the time of capture, and there was abundant evidence from many persons, several of whom were German, that they were wearing uniform at all times after their capture."

Paragraph 6: "On 27th July, 1943, the Torpedo Boat reached the island of Aspo off the Norwegian coast, north of Bergen. On the following day the whole of the crew were captured and were taken on board a German naval vessel which was under the command of Admiral von Schrader, the Admiral of the west coast. The crew were taken to the Bergenhus where they had arrived by 11 p.m. on 28th July. The crew were there interrogated by Leut. H.P.W.W.Fanger, a Naval Leutnant of the Reserve, on the orders of Korvettenkapitan Egon Drascher, both of the German Naval Intelligence Service. This interrogation was carried out upon the orders of the staff of the Admiral of the west coast. Leut. Fanger reported to the Officer in Charge of the Intelligence Branch at Bergen that in his opinion all the members of the crew were entitled to be treated as prisoners of war, and that officer in turn reported both orally and in writing to the Sea Commander, Bergen, and in writing to the Admiral of the west coast.

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"7. The interrogation by the Naval Intelligence Branch was concluded in the early hours of 29th July, and almost immediately all the members of the crew were handed over on the immediate orders of the Sea Commander, Bergen, to Obersturmbannfuehrer of the SD, Hans Wilhelm Blomberg, who was at that time Kommandeur of the Sicherheitspolizei at Bergen. This followed a meeting between Blomberg and Admiral von Schrader, at which a copy of the Fuehrer order of the 18th October 1942 was shown to Blomberg. This order dealt with the classes of persons who were to be excluded from the protection of the Geneva Convention and were not to be treated as prisoners of war, but when captured were to be handed over to the SD. Admiral von Schrader told Blomberg that the crew of this Torpedo Boat were to be handed over in accordance with the Fuehrer order, to the SD.

"9. The SD then conducted their own interrogation --

THE PRESIDENT: You can summarize the rest, can't you?

COL. PHILLIMORE: If your Lordship pleases.

My Lord, paragraph 9 describes the interrogation by officials of the SD, and that these officials took the same view as the Naval Intelligence officers, that the crew were entitled to be treated as prisoners of war; that despite this they were taken out and shot by an execution squad composed of members of the SD.

Then there is a description of the disposal of the bodies.

My Lord, the last paragraph is perhaps important in connection with the case against the defendant Keitel.

THE PRESIDENT: Yes, read it.

COL. PHILLIMORE: I should read it.

"11. It appeared from the evidence that in March or April, 1945, an order from the Fuehrer Headquarters, signed by Keitel, was transmitted to the German authorities in Norway. The substance of the order was that members of the crew of commando raids who fell into German captivity were from thatdate to be treated as ordinary prisoners of war. This order referred specifically to the Fuehrer order referred to above."

The members of the Tribunal will of course have noted the date; it was

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time to put their affairs in order.

My Lord, the next document, C-158, I put in as GB-209. It consists of two extracts from minutes of conferences on the 19th and 20th of February 1945, conferences between the defendant Doenitz and Hitler. If I might read the first and last sentence of the first extract:

"The Fuehrer is considering whether or not Germany should renounce the Geneva Convention." That is of course the 1929 prisoners of war convention. And the last sentence:

"The Fuehrer orders the Commander-in-Chief of the Navy to consider the pros and cons of their step and to state his opinion as soon as possible."

Then the second extract, the defendant Doenitz states his opinion in the presence of the defendant Jodl and the representative of the defendant Ribbentrop. It is the last two sentences on which I rely:

"On the contrary, the disadvantages" -- that is, the disadvantages of renouncing the convention--"outweigh the advantages. It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world."

My Lord, it is no small matter, that document, when one reflects that it was to that convention that we owe the fact that upwards of 165,000 British and 65,000 to 70,000 American prisoners of war were duly recovered at the end of the war. And to advocate breaching that convention, preferably without saying so, is not a matter to be treated lightly.

My Lord, the next document, C-171, I put in as GB-210. It is another extract from the minutes of a meeting between the defendant Doenitz and Hitler, the 1st of July 1944. The extract is signed by the defendant:

"Regarding the General Strike in Copenhagen, the Fuehrer says that the only weapon to deal with terror is terror. Court martial proceedings create martyrs. History shows, that the names of such men are on everybody's lips, whereas there is silence with regard to the many thousands who have lost their lives in similar circumstances without court martial proceedings".

"My Lord, the next document, C-195, I put in as GB-211. It is a memorandum signed by the defendant, dated late in 1944. There is no specific date on the document, but it is late in 1944, in December, I think,

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of 1944. The distribution on the third page includes Hitler, Keitel, Jodl, Speer and the Supreme Command of the Air Force.

My Lord, if I might read the second paragraph. He is dealing with the review of German shipping loses.

"Furthermore, I propose reinforcing the shipyard working parties by prisoners from the concentration camps and as a special measure for relieving the present shortage of coppersmiths, especially in U-boat construction, I propose to divert coppersmiths from the construction of locomotives to ship-building".

Then he does on to deal with sabotage, and the last two paragraphs on that page are:

"Since, elsewhere, measures for exacting atonement taken against whole working parties amongst whom sabotage occurred, have proved successful, and, for example, the shipyard sabotage in France was completely suppressed, possibly similar measures for the Scandinavian countries will come under consideration".

THE PRESIDENT: Do you need to read any more than that?

COLONEL PHILLIMORE: My Lord, no. The last sentence of the document in the next page is:

"Item 2 of the summing-up reads: '12,000 concentration camp prisoners will be employed in the shipyards as additional labor (security service agrees to this!" That is the SD.

My Lord, this man was one of the rulers of Germany, and, in my submission, that document alone is sufficient to condemn him. It was not for nothing that at these meetings Himmler and his Leutnants, Fegelein and Kaltenbrunner, were present.

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My Lord, they were not there to discuss U-boats for the use of battleships. It is clear, in my submission, from this document that this defendant knew all about concentration camps and concentration camp labor, and as one of the rulers of Germany he must bear his full share of that responsibility.

My Lord, I pass to the last document, D-650, which I put in as GB-212.

My Lord, this contains the orders issued by the defendant in April. The document, in my submission, shows the defendant's fanatical adherence to the Nazi creed, and his preparedness even at that stage to continue a hopeless war at the expense of human life and with the certainty of increased destruction and misery to the men, women and children of his country. I read the last paragraph on the second page:

"I therefore demand of the commanding officers of the Navy: That they clearly and unambiguously follow the path of military duty, whatever may happen. I demand of them that they stamp out ruthlessly all signs and tendencies among the men which endanger the following of this path."

Then he refers to an order. "I demand Senior Commanders that they should take just as ruthless action against any commander who does not do his military duty. If a commander does not think he has the moral strength to occupy his position as a leader in this sense, he must report this immediately. He will then be used as a soldier in this fateful struggle in some position in which he is not burdened with any tasks as a leader."

And then the last paragraph on that page, from the Fuehrer order of the 19th of April, he gives an example of the type of under-officer who should be promoted.

"An example: In a prison camp of the auxiliary cruiser 'Cormorau', in Australia, a petty officer acting as camp senior officer, had all communists who made themselves noticeable among the inmates of the camp systematically done away with in such a way that the guards did not notice. This petty officer is sure of my full recognition for his decision and his execution. After his return, I shall promote him with all means, as he has shown that he is fitted to be a leader."

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My Lord, of course the point is not whether the facts were true or not, but the type of order that he was issuing. My Lord, if I might just sum up, the Defendant was no plain sailor, playing the part of a service officer, loyally obedient to the orders of the government of the day; he was an extreme Nazi who did his utmost to indoctrinate the Navy and the German people with the Nazi creed. It is no coincident that it was he who was chosen to succeed Hitler; not Goering, not Ribbentrop, not Goebbels, not Himmler. He played a bigger part in fashioning the U-boat fleet, one of the most deadly weapons of aggressive war. He helped to plan and execute aggressive war, and we can not doubt that he knew well that these wars were in deliberate violation of treaties. He was ready to stoop to any ruse where he thought he would not be found out. Breaches of the Geneva Convention or of neutrality, were you might hope to maintain that sinking was due to a mine. He was ready to order, and did order, the murder of helpless survivors of sunken ships, an action only paralleled by that of his Japanese ally.

My Lord, there can be few countries where widows or parents do not mourn for men of the merchant navies whose destruction was due to the careless brutality with which, at the orders of this man, the German U-boats did their work.

My Lord, my learned friend, Mr. Elwyn Jones, now deals with the Defendant Raeder.

MR. ELWYN JONES: May it please the Tribunal, it is my duty to present to the Tribunal the evidence against the creator of the Nazi Navy, the Defendant Raeder. The allegations against him are set out in Appendix A of the Indictment at pages thirty-three and thirty-four, and the Tribunal will see tha the Defendant Raeder is charged with promoting and participating in the planning of the Nazi wars of aggression; with executing those plans; and with authorizing, directing, and participating in Nazi war crimes, particularly war crimes arising out of sea warfare.

At the outset the Tribunal may find it convenient to look at Exhibit 299-PS, which is already before the Tribunal as Exhibit U.S. 13, which the

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Tribunal will find at page ninety-six of the document book. That is a document which sets out the offices and positions held by the Defendant Raeder. The Tribunal will see that he was born in 1876 and joined the German Navy in 1896. By 1915 he had become commander of the Cruiser Koeln. In 1928 he became an admiral, chief of naval command, and head of the German Navy. In 1935 he became commander-in-chief of the Navy. In 1936 he became general admiral, a creation of Hitler's, on his forty-seventh birthday. In 1937 he received the high Nazi honor of golden badge of honor of the Nazi Party. In 1938 he became a member of the secret cabinet council. And in 1939 he reached the Empyrean of Grand Admiral, a rank created by Hitler, who presented Raeder with a marshal's baton. In 1943 he became admiral inspector of the German Navy, which as the Tribunal will shortly see was a kind of retirement into oblivion, because from January 1943 on, as the Tribunal has heard, Doenitz was the effective commander of the German Navy.

In these eventful years of Raeder's command of the German Navy from 1928 to 1943 he played a vital role. And I would like in the first instance to draw the Tribunal's attention to Raeder's part in building up the German Navy as an instrument of war to implement the Nazis general plan of aggression.

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The Tribunal is by now familiar with the steps by which the small navy permitted to Germany under the Treaty of Versailles was enormously expanded under the guidance of Raeder. I will do no more than to remind the Tribunal of some of the milestones upon Raeder's road to Nazi mastery of the seas, which mercifully he was unable to attain.

With regard to the story of Germany's secret rearmament in violation of the Treaty of Versailles, I would refer the Court to the Document C-156, which is already before the Court as U.S. 41, and which the Tribunal will find at page twenty-six of the document book. That document, as the Tribunal will remember, was a history of the fight of the German Navy against Versailles, 1919 to 1935, which was published secretly by the German Admiralty in 1937. And the Tribunal will remember that that history shows that before the Nazis came to power the German Admiralty was deceiving not only the governments of other countries, but its own legislature and at one stage its own government. Their secret measures of rearmament, ranging from experimental U-Boat and E-Boat building to the creation of secret intelligence and finance organizations. I only propose to trouble the Tribunal with a reference to the last paragraph at page thirty-three of the document book, which refers to the role of Raeder in this development. It is an extract from page seventy-five of this document C-156, and it reads:

"The commander-in-chief of the Navy, Admiral Raeder, had received hereby a far-reaching independence in the building and development of the navy. This was only hampered insofar as the previous concealment of rearmament had to be continued in consideration of the Versailles Treaty."

As an illustration of Raeder's concealment of rearmament, I would remind the Tribunal of the document C-141, U.S. Exhibit 47, which is at page twenty-two of the document book. In that document Raeder states that, "In view of Germany's treaty obligations and the disarmament conference, steps must be taken to prevent the first E-Boat-Half-Flotilla from appearing openly as a formation of torpedo-carrying boats, as it was not intended to count these E-boats against the number of torpedo-carrying boats allowed them."

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The next document, C-135, which will be exhibit GB-213, and which is at page twenty of the document book, is of unusual interest because it suggests that even in 1930 the intention ultimately to attack Poland was already current in German military circles. This document is an extract from the history of war organization and of the scheme for moblization. The German text of this document is headed "828500/38", which suggests that the document was written in the year 1938. The extracts read:

"Since under the Treaty of Versailles all preparations for mobilization were forbidden, these were at first confined to a very small body of collaborators and were at first only of a theoretical nature. Nevertheless, there existed at that time an "Establishment Order," Instructions for Establishment, the forerunners of the present-day scheme for Mobilization.

"An establishment organization and adaptable instructions for establishment were drawn up for each A-year, cover name for moblization year.

"As stated, the "Establishment Organization" of that time were to be judged purely theoretically, for they had no positive basis in the form of men and materials. They provided nevertheless a valuable foundation for the establishment of a War Organization as our ultimate aim."

Paragraph two. "The crises between Germany and Poland, which were becoming increasingly acute, compelled us, instead of making theoretical preparations for war, to prepare in a practical manner for a purely German-Polish conflict.

"The strategic idea of a rapid forcing of the Polish base of Gydnia was made a basis, and the fleet on active serve was to be reinforced by the auxilliary forces which would be indispensable to attain this strategic end, and the essential coastal and flak batteries, especially those in Pillau and Swinemuende were to be taken over. Thus in 1930 the Reinforcement Plan was evolved."

If the Tribunal turns over the page to paragraph three, to the second paragraph, Hitler had made a clear political request to build up

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for him in five years, that is to say, by the 1st of April 1938, armed forces which he could place in the balance as an instrument of political power.

Now that entry is appointed to the fact that the Nazi seizure of power in 1933 was a signal to Raeder to go full speed ahead on rearmament. The detailed story of this development has already been told by my American colleague, Mr. Alderman, and I would simply refer the Court in the first place to the document C-189, exhibit U.S.44, which is at page sixty-six of the document book. In that document Raeder tells Hitler in June 1934 that the German fleet must be developed to oppose England, and that therefore from 1936 on the big ships must be armed with big guns to match the British King George class of battleship. It further, in the last paragraph, refers to Hitler's demand that the construction of U-Boats should be kept completely secret, especially in view of the Saar plebescite. In November 1934 Raeder had a further talk with Hitler on the financing of naval rearmament, and on that occasion Hitler told him that in case of need he would get Doctor Ley to put 120 to 150,000,000 from the labor front at the disposal of the navy. The reference to that is the document C-190, exhibit U.S. 45, at page sixty-seven of the document book. The Tribunal may think that that proposed fraud upon the German working people was a characteristic Nazi manifestation.

The next document is the document —

THE PRESIDENT: Would that be a convenient time to break off?

MR. ELWYN JONES: If Your Lordship please.

(Whereupon at 1245 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours).

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Official Transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany on 15 January, 1946, 1400-1700, Lord Justice Lawrence, presiding.

MR. ELWYN JONES: May I say to the Tribunal, the next document I desire to draw to the Tribunal's attention is Document C 23, Exhibit U.S. 49, at page 3 of the Document Book, which states that the true displacement of certain German battleships exceeded by twenty per cent the displacement reported to the British, and that, I submit, is typical of Raeder's use of deceit.

The next document to which I refer to briefly, is C-166, Exhibit U.S. 48, page 36 of the Document Book, is another such deceitful document, which orders that auxiliary cruisers, which were being secretly constructed, should be referred to as "transport ships O."

Then there is the Document C-29, U.S. Exhibit 46, at page 8 of the Document Book, which is signed by Raeder, and deals with the support given by the German Navy to the German Armament Industry, and I submit, is an illustration of Raeder's concern with the broader aspects of Nazi policy and of the close link between Nazi politicians, German Service Chiefs and German armament manufacturers.

THE PRESIDENT: Has that been put in before?

MR. ELWYN JONES: It has been put in before, My Lord, as U.S. Exhibit 46.

A final commentary on post-1939 naval re-armament is the Document C-155, at page 24 of the Document Book, which is a new document and will be Exhibit G.B. 214, and is a letter from Raeder to the German Navy, dated the 11 of June, 1940 and the original, which has been submitted to the Tribunal, shows the very widest distribution of this letter. There is provision in the distribution list for 467 copies. This letter of Raeder's is a letter both of self-justification and of apology. The extracts read:

"The most outstanding of the numerous subjects of discussion in the Officer Corps are the Torpedo positions and the problem whether the naval building program, up to Autumn 1939, envisaged the possibility of the outbreak

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of war as early as 1939, or whether the emphasis ought not to have been laid, from the first, on the construction of U-boats.

"If the opinion is voiced in the Officer Corps that the entire naval building program has been wrongly directed, and if, from the first, the emphasis should have been on the U-boat weapon and after its consolidation on the large ships, I must emphasize the following matters:

"The building up of the Fleet was directed according to the political demands, which were decided by the Fuehrer. The Fuehrer hoped, until the last moment, to be able to put off the threatening conflict with England until 1944-45. At that time the Navy would have had available a fleet with a powerful U-boat superiority and a much more favorable ratio as regards strength in all other types of ships, particularly those designed for warfare on the high seas.

"The development of events forced the Navy, contrary to the expectation even of the Fuehrer, into a war, which it had to accept while still in the initial stage of its rearmament. The result is that those who represent the opinion that the emphasis should have been laid, from the start, on the building of the U-boat arm, appear to be right. I leave undiscussed, how far this development, quite apart from difficulties of personnel, training and dockyards, could have been appreciably improved in any way in view of the political limits of the Anglo-German Naval Treaty. I leave also undiscussed, how the early and necessary creation of an effective Air Force slowed down the desirable development of the other branches of the forces. I indicate, however, with pride the admirable and, in spite of the political restraints in the years of the Weimar Republic, far-reaching preparation for U-boat construction, which made the immensely rapid construction of the U-boat arm, both as regards equipment and personnel, possible immediately after the assumption of power."

There the Tribunal sees no trace of reluctance in cooperating with the Nazi program. On the contrary, the evidence points to the fact that Raeder welcomed and became one of the pillars of Nazi power, and now it will be my purpose to develop the relationship between Raeder, the Navy and the Nazi Party.

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The Prosecution's submission is that Raeder, more than anyone else, was responsible for securing the unquestioned allegience of the German Navy to the Nazi movement, an allegience which Doenitz was to make even more firm and fanatical.

Raeder's approval of Hitler was shown particularly clearly on the 2nd of August, 1934, the day of Hindenburg's death, when he and all the men under him, swore a new oath of loyalty with considerable ceremony, this time to Adolf Hitler and no longer to the Fatherland. The oath is found in Document 481, at page 101 of the Document Book. That will be Exhibit G.B. 215, and it may be of interest to the Court to see what the new oath was.

The last paragraph reads:

"I swear this holy oath by God that I will implicitly obey the Leader of the German Reich and people, Adolf Hitler, the Supreme Commander of the Armed Forces and that, as a brave soldier, I will be willing to stake my life at any time for this oath."

The Tribunal will see that for his fatherland, Raeder substituted the Fuehrer.

I am not proposing to take the Tribunal's time with reiterating the steps by which the German Navy was progressively drawn into the closest alliance with the Nazi Party. I would remind the Court of facts of history, like the incorporation of the swastika into the ensign, under which the German Fleet sailed and the wearing of the swastika on the uniform of naval officers and men, which are facts which speak for themselves.

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The Nazis for their part, were not ungrateful for Raeder's obeisance and collaboration. His services in rebuilding the German Navy were widely recognized by Nazi propagandists and by the Nazi press. On his 66th birthday, the Chief Party Organ, the "Voelkischer Beobachter", published a special article about him, to which I desire to draw the Tribunal's attention. It is at page 100 of the document book; it is document D-448, Exhibit G.B. 216. It is a valuable summing up of Raeder's contribution to Nazi development.

"It was to Raeder's credit" -- writes the Voelkischer Beobachter -- to have already built up by that time a powerful striking force from the numerically small fleet, despite the fetters of Versailles.

"With the assumption of power through National Socialism, began too, the most fruitful period in the reconstruction of the German Fleet.

"The Fuehrer openly expressed his recognition of Raeder's faithful services and unstinted cooperation, by appointing him General-Admiral on the 20th of April, 1936".

THE PRESIDENT: Do you think it necessary to read the entire document?

MR. ELWYN JONES: I was going to turn to the last paragraph but one, My Lord, which I think is helpful.

"As a soldier and a seaman, the General-Admiral has proved himself to be the Fuehrer's first and foremost naval collaborator."

I submit, that is a summing up of his status and position in Nazi Germany.

I now propose to deal with Reader's personal part in the Nazi conspiracy. The evidence indicates that Raeder, from the time of the Nazi seizure of power, became increasingly involved in responsibility for the general policies of the Nazi State.

Long before he was promoted to General-Admiral in 1936, he had become a member of the very secret Reich Defense Council, joining it when it was founded on the 4th of April, 1933. And thus, at an early date, he was involved, both militarily and politically, in the Nazi conspiracy. The relevant document upon that is Document EC-177, U.S. Exhibit 390, at page 68 of the Document Book, which I would remind the Tribunal contains the

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classic Nazi directive: "Matters communicated orally cannot be proven; they can be denied by us in Geneva."

On the 4th of February, 1938, Raeder was appointed to be a member of a newly formed secret advisory council for foreign affairs, and the authority for the statement is Exhibit 2031-PS, at page 88 of the Document Book, which will be Exhibit G.B. 217.

Three weeks after this, a decree of Hitler's stated that, as well as being equal in rank with a Cabinet Minister, Raeder was also to take part in the sessions of the Cabinet. That has already been established in Document 2098-PS, which was submitted as G.B. 206.

In my submission, therefore, it is thus clear that Raeder's responsibility for the political decisions of the Nazi State was steadily developed from 1933 to 1938 and that in the course of time he had become a member of all the main political advisory bodies. He was, indeed, very much a member of the inner councils of the conspirators, and, I submit, must carry with them the responsibility for the acts that led to the German invasion of Poland in 1939 and the outbreak of the war.

As an illustration, I would remind the Tribunal that Raeder was present at two of the key meetings at which Hitler openly declared his intention of attacking neighboring countries. They are the Document 386-PS, which is U.S. Exhibit 25 and is found at page 81 of the Document Book, which the Tribunal will remember is the record of Hitler's conference at the Reichs Chancellory on the 5th of November, 1937, about matters which were said to be too important to discuss in the larger circle of the Reich Cabinet, and a document which Mr. Alderman submitted, establishing conclusively that the Nazis premeditated their crimes against peace.

Then there was the other conference of Hitler's on the 23rd of May, 1939, the Minutes of which are found in the Document L-79, U.S. Exhibit 27, at page 74 of the Document Book. That, the Tribunal will remember, was the conference at which Hitler confirmed his intention to make a deliberate attack upon Poland at the first opportunity, well knowing that this must cause widespread war in Europe.

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Now, those two were key conferences. At many, many others Raeder was also present to place his knowledge and professional skill at the service of the Nazi war machine.

His active promotion of the military planning and preparation for the Polish campaign is by now well-known to the Tribunal and I am not proposing to reiterate that evidence again. Once the war did start, however, the Defendant Raeder showed himself to be a master of the most typical of the conspirators' techniques, namely that of deceit on the grand scale. There are few better examples of this allegation than that of his handling of the case of the "Athenia."

The "Athenia", as the Tribunal will be aware, was a passenger liner, which was sunk in the evening of the 3rd of September, 1939, when she was outward bound to America, about one hundred lives being lost.

On the 23rd of October, 1939, the Nazi Party paper, the "Voelkischer Beobachter", published, in screaming headlines the story, "Churchill sank the Athenia." I would refer the Court to Exhibit 3260-PS, at page 97 of the Document Book, which will be Exhibit G.B. 218, and I would like the Tribunal to look for a moment at the copy of the Voelkischer Beobachter here, and see the scale with which this deliberate lie was perpetrated. I have a photostat of the relevant page of the Voelkischer Beobachter for that day. This is the third page and the Tribunal will see on this front page, with the big red underlining, there are the words: "Now we indict Churchill."

The extract from the Voelkischer Beobachter, which is at page 97 of the Document Book, reads as follows:

"Churchill sank the 'Athenia'.

"The above picture" -- and the Tribunal will see it is a

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fine picture of this fine ship -- "-- shows the proud 'Athenia', the ocean giant, which was sunk by Churchill's crime. One can clearly see the big radio equipment on board the ship. But nowhere was an SOS heard from the ship. Why was the 'Athenia' silent? Because her captain was not allowed to tell the world anything. He very prudently refrained from telling the world that Winston Churchill attempted to sink the ship, through the explosion of an infernal machine. He knew it well, but he had to keep silent. Nearly fifteen hundred people would have lost their lives if Churchill's original plan had resulted as the criminal wanted. Yes, he longingly hoped that the one hundred Americans on board the ship would find death in the waves so that the anger of the American people, who were deceived by him, should be directed against Germany, as the presumed author of the deed. It was fortunate that the majority escaped the fate intended for them by Churchill. Our picture on the right shows two wounded passengers. They were rescued by the freighter 'City of Flint', and as can be seen here, turned over to the American coast guard boat 'Gibb' for further medical treatment. They are an unspoken accusation against the criminal Churchill. Both they and the shades of those who lost their lives call him before the Tribunal of the world and ask the British people, 'How long will the office, one of the richest in tradition known to Britain's history, be held by a murderer?'"

Now, in view of the maliciousness of this "Voelkischer Beobachter" announcement and in fairness to the men of the British Merchant Navy, I think it is proper that I should say, that contrary to the allegation in this Nazi sheet, the "Athenia" of course, made repeated wireless distress signals which were in fact intercepted and answered by His Majesty's ship "Electra", in escort, as well as by the Norwegian steamship "Knut Nelson" and the yacht "Southern Cross."

I shall submit evidence to the Tribunal to establish that, in fact, the "Athenia" was sunk by the German U-boat 30. So unjustifiable was the torpedoing of the "Athenia", however, that the German Navy embarked on a course of falsification of their records and on other dishonest measures, in the hope of hiding their guilty secret. And for their part, the

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Tribunal has seen, the Nazi propagandists indulged in their favorite falsehood of seeking to shift the responsibility to the British.

The Captain of the U-boat 30, Oberleutenant Lemp, was later killed in action, but some of the original crew of the U-30 have survived to tell the tale and they are now prisoners of war. And so that the truth of this episode may be placed beyond a peradventure, I place before the Tribunal an affidavit by a member of the crew of the U-30, as to the sinking of the "Athenia" and as to one aspect of the attempt to conceal the true facts.

I refer to Document C-654, Exhibit G.B.219, at page 106 of the Document Book. The affidavit reads:

"I, Adolf Schmidt, Official Number N 1043 -33T,

"Do solemnly declare that:

"I am now confined to Camp No 133, Lethbridge, Alberta.

"That on the first day of war, 3 September 1939, a ship of approximately 10,000 tons was torpedoed in the late hours of the evening by the U-30.

"That after the ship was torpedoed and we surfaced again, approximately half an hour after the explosion, the Commandant called me to the tower in order to show me the torpedoed ship.

"That I have seen the ship with my very eyes, but that I do not think that the ship could see our U-boat at that time on account of the position of the moon.

"That only a few members of the crew had an opportunity to go to the tower in order to see the torpedoed ship.

"That apart from myself, Oberleutenant Hinsch was in the tower when I saw the steamer after the attack.

"That I observed that the ship was listing.

"That no warning shot was fired before the torpedo was launched.

"That I myself observed much commotion on board of the torpedoed ship.

"That I believe that the ship had only one smoke stack.

"That in the attack on this steamer one or two torpedoes were fired which did not explode but that I myself heard the explosion of the torpedo which hit the steamer.

"That Oberleutenant Lemp waited until darkness before surfacing.

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"That I was severely wounded by aircraft 14 September, 1939.

"That Oberleutenant Lemp shortly before my disembarkation in Reykjavik 19 September 1939, visited me in the forenoon in the Pety Officers quarters where I was lying severely wounded.

"That Oberleutnant Lemp then had the Petty Officers' quarters cleared in order to be alone with me.

"That Oberleutnant Lemp then showed me a declaration under oath according to which I had to bind myself to mention nothing concerning the incidents of 3 September 1939 on board the U-30.

"That this declaration under oath had approximately the following wording: 'I, the undersigned, swear hereby that I shall shroud in secrecy all happenings of 3 September 1939 on board the U-30, regardless whether foe or friend, and that I shall erase from my memory all happenings of this day.'

"That I have signed this declaration under oath, which was drawn up by the Commandant in his own handwriting, with my left hand very illegibly.

"That later on in Iceland when I heard about the sinking of the Athenia, the idea came into my mind that the U-30 on the 3 September 1939 might have sunk the Athenia, especially since the Captain caused me to sign the above-mentioned declaration.

"That up to today I have never spoken to anyone concerning these events.

"That due to the termination of the war I consider myself freed from my oaths."

Doenitz's part in the Athenia episode is described in an affidavit which he has sworn, which is Exhibit D-368, Exhibit GB-220, at page 102 of the Document Book. The affidavit was sworn in English, and I invite the Tribunal to look at it and observe the addition in Doenitz's handwriting of four words at the end of the affidavit, the significance of which will be seen in a moment.

The Defendant Doenitz states:

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"U-30 returned to harbor about Mid-September. I met the captain, Oberleutnant Lemp, on the lockside at Wilhelmshafen, as the boat was entering harbor, and he asked permission tospeak to me in private. I noticed immediately that he was looking very unhappy and he told me at once that he thought he was responsible for the sinking of the Athenia in the North Channel area. In accordance with my previous instructions he had been keeping a sharp lookout for possible armed merchant cruisers in the approaches to the British Isles, and had torpedoed a ship he afterwards identified as the Athenia from wireless broadcasts, under the impression that she was an armed merchant cruiser on patrol. I had never specified in my instructions any particular type of ship as armed merchant cruiser nor mentioned any names of ships. I despatched Lemp at once by air to report to the SKL at Berlin; in the meantime, I ordered complete secrecy as a provisional measure. Later tha same day or early on the following day, I received a verbal order from Kapitan zur See Fricke" -- who is head of the Operations Division of the Naval War Staff -- "that:

"1. The affair was to be kept a total secret.

"2. The OKM considered that a courtmartial was not necessary as they were satisfied that the captain had acted in good faith.

"3. Political explanations would be handled by the OKM.

"I had had no part whatsoever in the political events in which the Fuehrer claimed that no U-boat had sunk the Athenia.

"After Lemp returned to Wilhemshafen from Berlin, I interrogated him thoroughly on thesinking and formed the impression that although he had taken reasonable care, he had still not taken sufficient precautions to establish fully the identity of the ship before attacking; I had previously given very strict orders that all merchant vessels and neutrals were to be treated according to naval prize law, before the occurrence of this incident. I accordingly placed him under cabin arrest, as I felt certain that a court-martial could only acquit him and would entail unnecessary publicity" -- and then Doenitz has added the words "and too much time."

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It is right, I think, that I should add that Doenitz's suggestion that the captain of the U-30 sank the Athenia in mistake for a merchant cruiser must be considered in the light of a document which Colonel Phillimore submitte Document C-191, Exhibit GB-193, dated 22 September 1939, which contained Doenitz's order that "the sinking of a merchant ship must be justified in the War Diary as due to possible confusion with a warship or an auxiliary cruiser."

Now, the U-30 returned to Wilhelmshaven on 27 September 1939. I submit another fraudulent naval document, Exhibit D-659, page 110 of the document book, which will be Exhibit GB-221, which is an extract from the War Diary of the Chief of U-boats, and it is an extract for the 27th of September, 1939. The Tribunal will see that it reads:

"U-30 comes in.

"She had sunk:

"s.s. Blairlogie

"s.s. Fanad Head."

There is no reference at all, of course, to the sinking of the Athenia.

But perhaps the most elaborate forgery in connection with this episode was the forgery of the log book of the U-30, which was responsible for sinking the Athenia, and I now submit that original log book to the Tribunal as Document D-662, which will be GB-22, and an extract from the first and relevant page of it is found at page 111 of the document book. I would like the Tribunal to examine the original, if you will be good enough to do so, because the Prosecution's submission is that the first page of that log book is a forgery, but a forgery which shows a curiously un-German carelessness about detail. The Tribunal will see that the first page of the text is a clear substitute for pages that have been removed. The dates in the first column of that page are in Arabic numerals. On the second and more authentic looking page, and throughout the other pages of the log book, they are in Roman numerals.

The Tribunal will also see that all reference to the action of the sinking of the Athenia on the 3rd of September is omitted. The entries are translated on page 111 of the document book for the Court's assistance.

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The log book shows that the position at 1400 hours, of the U-30 on the 3rd of September, is given as AL o278, which the Tribunal will notice is one of the very few positions quoted at all upon that page, and which was, in fact, some 200 miles west of the position where the Athenia was sunk. The course due south, which is recorded in the log book, and the speed of 10 knots -- those entries are obviously designed to suggest that the U-30 was well clear of the Athenia's position on the 3rd of September.

Finally, and most curiously, the Tribunal will observe that Lemp's own signature upon the page dealing with the 3rd of September differs from the other signatures in the text. Page 1 shows Lemp's signature with a Roman "p" as the final letter of his name. On the other signatures, there is a script "p", and the inference I submit is that either the signature is a forgery or it was made up by Lemp at some other, and probably considerably later date.

Now, in my submission, the whole of this Athenia story establishes that the German Navy under Raeder embarked upon deliberate fraud. Even before receiving Lemp's reports, the German Admiralty had repeatedly denied the possibility that a German U-Boat could be in the area concerned. The charts which showed the disposition of U-boats and the position of sinking of the Athenia, which Colonel Phillimore introduced, have shown the utter dishonesty of these announcements, and my submission upon this matter is this: Raeder, as head of the German Navy, knew all the facts. Censorship and information control in Nazi Germany were so complete that Raeder, as head of the Navy, must have been party to the falsification published in the Voelkisbher Beobachter, which was a wholly dishonorable attempt by the Nazi conspirators to save their faces with their own people and to uphold the myth of an infallible Fuehrer backed by an impeccable war machine.

The Tribunal has seen that truth mattered little in Nazi propaganda, and it would appear that Raeder's camouflage was not confined to painting his ships or sailing them under the British flag, as he did in attacking Norway or Denmark. With regard to that last matter, the invasion of Norway and Denmark, I think it is hardly necessary that I should remind the Tribunal of Raeder's leading partin that perfidious Nazi assault, the evidence

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as to which has already been presented. I think I need only add Raeder's proud comment upon those brutal invasions, which is contained in his letter in Document C-155 at page 25 of the document book, which is already before the Tribunal as GB-214. That document, which is a letter of Raeder's to the Navy, part of which I have already read, states:

"The operations of the Navy in the occupation of Norway will for all time remain the great contribution of the Navy to this war."

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Now, with the occupation of Norway and much of Western Europe safely completed, the Tribunal has seen that Hitler turned his eyes towards Russia. Now, in fairness to Raeder, it is right that I should say that Raeder himself was against the attack on Russia and tried his best to dissuade Hitler from embarking upon it. The documents show, however, that Raeder approached the problem with complete cynicism. He didn't object to the aggressive war on Russia because of its illegality, its immorality, its inhumanity. His only objection to it was its untimeliness. He wanted to finish England first before going further afield.

The story of Raider's part in the deliberations upon the war against Russia is told in the document C-170, at page 37 of the document book, and which has already been submitted as US-136. That document consists of extracts from a German compilation of official naval notes by the German Naval War Staff.

The first entry, at page 47 of the document book, which bore the date of 26 September 1940, which is at page 11 of C-170, showed that Raeder was advocating to Hitler an aggressive Mediterranean policy in which, of course, the Navy would play a paramount role, as opposed to a continental land policy. The entry reads:

"Naval Supreme Commander with the Fuehrer: Naval Supreme Commander presents his opinion about the situation: the Suez Canal must be captured with German assistance. From Suez advance through Palestine and Syria; then Turkey in our power. The Russian problem will then assume a different appearance. Russia is fundamentally frightened of Germany. It is questionable whether action against Russia from the North will then be still necessary."

The next entry is at page 48 of the document book for the 14th of November:

"Naval Supreme Commander with the Fuehrer: Naval Supreme Commander emphasizes again that strict concentration of our entire war effort against England as our main enemy is the most urgent need of the hour. On the one side England has gained strength by the unfortunate Italian conduct of the war in the Eastern Mediterranean and by the increasing American support. On the other hand, however, she can be hit mortally by a strangulation of

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her ocean traffic which is already taking effect. What is being done for submarine and naval air force construction is much too little. Our entire war potential must work for the conduct of the war against England; thus for Navy and air force every fissure of strength prolongs the war and endangers the final success. Naval Supreme Commander voices serious objections against Russia campaign before the defeat of England."

At page 52 of the document book, on the 18th of February, 1941, there is the entry:

"Chief, Naval Operations (SKL) insists on the occupation of Malta even before 'Barbarossa'".

On the next page, for the 23rd of February there is this interesting entry:

"Instruction from Supreme Command, Armed Forces (OKW) that seizure of Malta is contemplated for the fall of 1941 after the execution of 'Barbarossa' -- which the Tribunal may think is a sublime example of wishful thinking.

The next entry, for the 19th of March, 1941, which is at page 54 of the document book, shows that by March of 1941 Raeder had begun to consider what prospects of naval action the Russian aggression had to offer. There is the entry:

"In case of 'Barbarossa', Supreme Naval Commander describes the occupation of Murmansk as an absolute necessity for the Navy Chief of the Supreme Command Armed Forces, considers compliance very difficult."

In the meantime, the entries in the document show that Mussolini, the flunky of Naziism, was crying out for a more active Nazi Mediterranean policy. I refer the Court to page 57 of the document book, the entry for the 30th of May. The word "Duce" is missing from the first line, and the entry should read:

"Duce demands urgently decisive offensive Egypt-Suez for fall 1941; 12 division is needed for that; 'This stroke would be more deadly to the British Empire than the capture of London'; Chief Naval Operations agrees completely."

And then, finally, the entry for the 6th of June, indicating strategic views of Raeder and the German Navy at this stage, reads as follows: It is at page 58 of the document book:

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"Naval Supreme Commander with the Fuehrer: Memorandum of the Chief, Naval Operations. Observation on the strategic situation in the Eastern Mediterranean after the Balkan campaign and the occupation of Crete and further conduct of the war."

A few sentences below:

"The memorandum points with impressive clarity to the decisive aims of the war in the Near East. Their advancement has moved into grasping distance by the successes in the Aegean area, and the memorandum emphasizes that the offensive utilization ofthe present favorable situation must take place with the greatest acceleration and energy, before England has again strengthened her position in the Near East with help from the United States of America. The memorandum realizes the unalterable fact that the campaign against Russia would be opened very shortly, demands, however, that the undertaking 'Barbarossa' which because of the magnitude of its aims naturally stands in the foreground of the operational plans of the armed forces leadership, must under no circumstances lead to an abandonment, diminishing delay of the conduct of the war in the Eastern Mediterranean."

So that Raeder was, throughout, seeking an active role for his Navy in his Nazi war plans.

Now, once Hitler had decided to attack Russia, Raeder sought a role for the Navy in the campaign against Russia, and the first naval operational plan against Russia was a particularly perfidious one. I refer the Tribunal to the document C-170 which I have just been reading from, at page 59 of the document book. There the Tribunal will see an entry for the 15th of June, 1941;

"On the proposal of Chief Naval Operations, use of arms against Russian submarines, south of the northern boundary of the Poland warning area is permitted immediately; ruthless destruction is to be aimed at."

The Defendant Keitel provided a characteristically dishonest pretext for this action in his letter, Document C-38, which is at page 11 of the document book and which will be GB-223. The Tribunal sees that Keitel's letter is dated the 15th of June, 1941:

"Subject: Offensive action against enemy submarines in the Baltic Sea.

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"To:

"High Command of the Navy - OKM (SKL)

"Offensive action against submarine south of the line Memel-southern tip of Oeland is authorized if the boats cannot be definitely identified as Swedish during the approach by German naval forces.

"The reason to be given up to B-day is that our naval forces believed to be dealing with penetrating British submarines."

Now, that was on the 15th of June, 1941, and the Tribunal will remember that the Nazi attack of Russia did not take place until the 22nd of June of 1941. In the meantime, Raeder was urging Hitler, as early as the 18th of March, 1941, to enlarge the scope of the world war by inducing Japan to seize Singapore. The relevant document is C-152, GB-122, at page 23 of the document book. There is just one paragraph which I would like to be permitted to read. The document describes the audience of Raeder with Hitler on the 18th of March and the entries in it, in fact, represent Raeder's own views:

"Japan must take steps to seize Singapore as soon as possible, since the opportunity will never again be as favorable (whole English Fleet contained; unpreparedness of U.S.A. for war against Japan; inferiority of U.S. Fleet vis-a-vis the Japanese). Japan is indeed making preparations for this action, but according to all declarations made by Japanese officers she will only carry it out if Germany proceeds to land in England. Germany must therefore concentrate all her efforts on spurring Japan to act immediately. If Japan has Singapore all other East Asiatic questions regarding the U.S.A. and England are thereby solved (Guam, Philippines, Borneo, Dutch East Indies).

"Japan wishes if possible to avoid war against U.S.A. She can do so if she determinedly takes Singapore as soon as possible."

The Japanese, of course, as events proved, had different ideas from that.

By the 20th of April, 1941, the evidence is that Hitler had agreed with this proposition of Raeder's of inducing the Japanese to take offensive action against Singapore. I refer the Tribunal again to Document C-170 and to an entry at page 56 of the document book, for the 20th of April, 1941.

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And a few sentences from that read:

"Naval Supreme Commander with the Fuehrer: Navy Supreme Commander asks about result of Matsuoka's visit, and evaluation of Japanese-Russian pact. Fuehrer has informed Matsuoka, 'that Russia will not be touched if she behaves friendly according to the treaty. Otherwise, he reserves action for himself.' Japan-Russia pact has been concluded in agreement with Germany, and is to prevent Japan from advancing against Vladisvostok, and to cause her to attack Singapore."

Now an interesting commentary upon this document is found in the document C-66, at page 13 of the document book. The document C-66 has already been exhibited as GB-81. I will refer the court to paragraph 3 at page 13 of the document book. At that time the Fuehrer was firmly resolved on a surprise attack on Russia, regardless of what was the Russian attitude to Germany. This, according to reports coming in, was frequently changing, and there follows this interesting sentence:

"The communication to Matsuoka was designed entirely as a camouflage measure and to ensure surprise."

The Axis partners were not even honest with each other, and this, I submit, is typical of the kind of jungle diplomacy with which Raeder associated himself.

I now, with the Tribunal's permission turn from the field of diplomacy to the final aspect of the case against Raeder, namely, crimes at sea.

The prosecution's summation is that Raeder throughout his career showed a complete disregard for any international rule or usage of war which conflicted in the slightest with his intention of carrying through the Nazi program of conquest. I propose to submit to the Tribunal a few examples of Raeder's flouting of the law and customs of civilized states.

Raeder has himself summarized his attitude in the most admirable fashion in the document U.K.65, which the Tribunal will find at page 98 of the document book, and which will be Exhibit GB-224. Now that document, U K 65, is a very long memorandum compiled by Raeder and the German Naval War Staff on the 15th of October 1939: that is to say, only a few weeks after the war started.

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And it is a memorandum on the subject of the intensification of the war at sea, and I desire to draw the Tribunal's attention to the bottom paragraph at page 98 of the document book. It is headed: "Possibilities of future naval warfare."

"I. Military requirements for the decisive struggle against Great Britain.

"Our naval strategy will have to employ all the military means at our disposal as expeditiously as possible. Military success can be most confidently expected if we attack British sea-communications wherever they are accessible to us with the greatest ruthlessness; the final aim of such attacks is to cut off all imports into and exports from Britain. We shoult try to consider the requirements. It is desirable to base all military measures taken on existing international law; however measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried out, even if they are not covered by existing international law. In principle therefore, any means of warfare which is effective in breaking enemy resistance should be used on some legal conception," -- the nature of which is not specified, -- "even if that entails the creation of a new code of naval warfare.

"The supreme War Council will h ve to decide what measures of military and legal nature are to be taken. Once it has been decided to conduct economic warfare in its most ruthless form, in fulfilment of military requirements this decision is to be adhered to under all circumstances and under no circumstances may such a decision for the most ruthless form of economic warfare, once it has been made, be dropped or released under political pressure from neutral powers; that is what happened in the World War to our own detriment. Every protest by neutral powers must be turned down. Even threats of further countries, including the U.S. coming into the war which can be expected with certainty should the war last a long time, must not lead to a relaxation in the form of economic warfare once embarked upon. The more ruthlessly economic warfare is waged, the earlies will it show results and the sooner will the war come to an end. The economic effect of such military measures on our own war economy

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must be fully recognized and compensated through immediate re-orientation of German war economy and the re-drafting of the respective agreements with neutral state; for this, strong political and economic pressure must be employed if necessary."

I submit that those comments are most revealing and the general summation of the prosecution is that as an active member of the inner councils of the Nazi state right up to 1943, Raeder must share responsibility for the many war crimes committed by his confederates and underlings in the

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course of their wars.

But quite apart from this over-all responsibility of Raeder, there are certain crime which the prosecution submits were essentially initiated and passed down the naval chain of command by Raeder himself.

I refer to the document C-27, at page 7 of the document book, which will be GB-225. Those are minutes of a meeting between Hitler and Raeder on the 30th of December 1939. I read with the Court's approval the second paragraph beginning:

"The chief of naval war staff requests that full power be given to the naval war staff in making any intensification suited to the situation and to the means of war. The Fuehrer fundamentally agrees to to the sinking without warning of Greek ships in the American prohibited area in which the fiction of mine danger can be upheld, e.g., the Bristol Channel."

At this time, of course, as the Tribunal knows, Greek ships were neutral. I submit that this is another demonstration of the fact that Raeder was a man without principle.

This incitement to crime was, in my summation, a typical group effort, because in the document C-12, which is at page 1 of the document book, the Tribunal will see that a directive to the effect of those naval views was issued on the 30th of December 1939 by the OKW, being signed by the defendant Yodl. And that document C-12 will be GB-226. It is an interesting document. It is dated the 30th December 1939, and it reads:

"On the 30th of December 1939, according to a report of Ob.d.M., the Fuehrer and Supreme Commander of the Armed Forces decided that:

"(1) Greek merchant ships in the area around England declared by U.S.A. to be a barred zone are to be treated as enemy vessels.

"(2) In the Bristol Channel, all shipping may be attached without warning - where the impression of a mining incident can be created.

"Both measures are authorized to come into effect immediately."

Another example of the callous attitude of the German navy when it was under Raeder's command, towards neutral shipping, is found in

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an entry in Yodl's Diary--

THE PRESIDENT: I think perhaps you should read the pencil note, had'nt you?

MR. ELWYN JONES: The pencil note on the document C-12 reads:

"Add to (1) Attack must be carried out without being seen. the denial of the sinking of these steamships in case the expected protests are made must be possible."

As I was saying, My Lord, another example of the callouse attitude of Raeder's navy towards neutral shipping is found in an entry in Yodl's diary for the 16th of June 1942, at page 112 of the document book, which is Exhibit 1807-PS, will be GB-227. This extract from Yodl's diary is dated the 16th of June 1942 and it reads:

"The operational staff of the Navy (Skl), applied on the 29th May for permission to attack the Brazilian sea and air forces. The Skl considers that a sudden blow against the Brazilian naval and merchant ships is expedient at this juncture (a) because defense measures are still incomplete; (b) because there is th possibility of achieving surprise; and (c) because

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Brazil is to all intents and purposes fighting Germany at sea."

This, the Tribunal will see, was a plan of a kind of Brazilian "Pearl Harbor" because the Tribunal will recollect that the war did not in effect break out between Germany and Brazil until the 22nd of August 1942. Raeder himself also caused the Navy to participate in war crimes ordered by other conspirators, and I shall give one example only of that.

On the 22nd of October 1942, as the document C-179, US 543, at page 63 of the document book shows, the head of the operations division of the naval war staff promulgated to naval commands Hitler's notorious order of the 18th of October 1942 with regard to the shooting of commandos which in my summation amounted to denying the protection of the Geneva Convention to captured commandos.

The Tribunal will remember the document is dated the 28th of October 1942, and it reads:

"Enclosed please find a Fuehrer Order regarding annhiliation of terror and sabotage units.

"This order must not be distributed in writing by Flotilla leaders, Section Commanders or officers of this rank.

"After verbal distribution to subordinate sections the above authorities must hand this order over to the next highest section which is responsible for its confiscation and destruction."

What clearer indication can there be than the nature of these instructions as to the naval commander's appreciation of the wrongfulness of the murders Hitler ordered.

THE PRESIDENT: Shall we adjourn now for ten minutes?

(A recess was taken from 19520 to 1530 hours.)

MR. JONES: I have drawn the Tribunal's attention to the circulation of Hitler's order to shoot the commandos. I now draw the Tribunal's attention to an example of the execution of that order by the German Navy during the period when Raeder was its Commander.

My learned friend Mr. Roberts has already given the Tribunal an account of a commando operation of December, 1942, which had as its objective an attack on shipping in Bordeaux harbour. The Tribunal will recollect that the Wehrmacht account he quoted, UK 57, Exhibit GB 164, stated that six of

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the ten participants in that commando raid were arrested and that all were shot on the 23 March 1943. In connection with that episode the Prosecution has a further document throwing some light on this Bordeaux incident and showing how much more expediously the Navy under Raeder had implemented Hitler's order on this particular occasion. I draw the Court's attention to Document C 176, at page 61 of the document book, GB Exhibit 228.

That document consists of extracts from the war diary of Admiral Bachmann, who was the German Flag Officer in charge of Western France. The first entry, at page 61, is dated 10 December 1942 and reads:

"About 1015. Telephone call from personal representative of the Officer-in-charge of the Security Service in Paris, SS-Obersturmfuehrer Dr. Schmidt to Flag Officer in charge's Flat Lieutenant, requesting postponement of the shooting, as interrogation had not been concluded.

"After consultation with the Chief of Operations Staff the Security Service had been directed to get approval direct from Headquarters.

"1820. Security Service, Bordeaux, requested Security Service authorities at Fuehrer's headquarters to postpone the shooting for three days. Interrogations continued for the time being."

The next day, the 11 December 1942:

"Shooting of the two prisoners was carried out by a unit (strength 1/16) belonging to the naval officer in charge Bordeaux, in the presence of an officer of the Security Service, Bordeaux, on order of the Fuehrer."

Then there is a note in green pencil in the margin opposite the entry: "Security Service should have done this. Phone Flag Officer in Charge in future cases"; and as the Tribunal knows, "in future cases" was in fact an order that commandos should be handed over to the Security Service to be shot.

The Tribunal will therefore see from this document, C 176, that the first two gallant men to be shot from the Bordeaux operation were actually put to death by a naval firing party on the 11th of December, 1942. They were Sergeant Wallace and Marine Ewart, who had the misfortune to be captured on the 8th of December in the preliminary stages of the operation.

Of interest is the comment of the Naval War Staff upon this shooting, which is found in Document D 658.

THE PRESIDENT: What do the last two lines about the operation being particularly favored mean?

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MR. JONES: "The operation was particularly favored by the weather conditions and the dark night"--that presumably, My Lord, is a reference to the operation of the marine commandos in successfully blowing up a number of German ships in Bordeaux harbour. Alternately, I am advised by the naval officer who is assisting me, that it probably is a reference to the conditions prevailing at the time of the shooting of the two men.

THE PRESIDENT: I should have thought so.

MR. JONES: I stand corrected by the British Navy upon my interpretation of the matter.

THE PRESIDENT: Doesn't it indicate that naval men had done it?

MR. JONES: The shooting was in fact, as the entry on 11 December

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shows, carried out by a naval party--by units belonging to the naval officer in charge of Bordeaux.

THE PRESIDENT: Yes.

MR. JONES: I was seeking to draw the Tribunal's attention to the comment of the Naval War Staff upon that shooting, which is in document D-658, at page 109, Exhibit GB-229. It reads:

"The Naval Commander, West France, reports that during the course of the day explosives with magnets to stick on, mapping material dealing with the mouth of the Gironde, aerial photographs of the port installations at Bordeaux, camouflage material and food and water for several days were found. Attempts to salvage the canoe were unsuccessful. The Naval Commander, West France, has ordered that both soldiers be shot immediately for attempted sabotage, if their interrogation, which has begun, confirms what has so far been discovered; their execution has, however, been postponed in order to obtain more information.

"According to a Wehrmacht report, both soldiers have meanwhile been shot. The measure would be in accordance with the Fuehrer's special order, but is nevertheless something new in international law, since the soldiers were in uniform."

I submit that that last sentence shows very clearly that the Naval High Command under Raeder accepted allegiance to the Nazi conspiracy as of greater importance than any question of moral principle or of professional honor and integrity. This operation of the shooting of those two commandoes was, as I submit, not an act of war, but a murder of two gallant men, and it is upon this sombre note that it is my duty to summarize this part of the Prosecution's case against the Defendant Raeder.

The Prosecution's submission is that he was not just a military puppet carrying out political orders. The Tribunal has seen that before the Nazis came he had worked actively to rebuild the German

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Navy behind the back of the Reichstag. When the Nazis seized power, he unreservedly joined forces with them. He was the prime mover transferring the loyalty of the German Navy to the Nazi Party. He himself was as much a member of the inner councils of the Nazis as any other Defendant. He accepted membership of their main political advisory bodies.

He was well aware of their aggressive designs and assisted in their realization not only as a military technician, but also as a mendacious politician. And he furthered, as I have submitted, their brutal methods of warfare. And yet of all these conspirators Raeder was one of the first to fall from his high position. It is in fact true that the extension of the war beyond the boundaries of Poland came as a disappointment to him. His vision of a Nazi Armada mastering the Atlantic reckoned without Ribbentrop's diplomacy and Hitler's ideas of strategy.

I would draw the Tribunal's attention to document C-161, at page 35 of the document book, which is an extract, GB-230, from a memorandum by Raeder, dated 10 January, 1943, just before his retirement, entitled, "The Importance of German Surface Forces for the War by the powers signatory to the Three Power Pact." The material entry reads:

"It was planned by the leaders of the National Socialist Reich to give the German Navy by 1944/45 such a strength that it would be possible to strike at the British vital arteries in the Atlantic with sufficient ships, fighting power and range.

"In 1939, the war having begun five years earlier, the construction of these forces was still in its initial stages."

So the Tribunal will see from that document how completely Raeder was cheated in his ambitious plans by miscalculation as to when his high seas fleet would be required. The Tribunal has seen that Raeder made a great effort to recover some of his lost glory with

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his attack on an inoffensive Norway. He made many efforts to liven up the war at sea, both at the expense of neutrals and also of the customs and laws of the sea. But his further schemes, however, were disregarded by his fellow conspirators, and in January, 1943, he retired, and thereafter was a leader in name only.

I invite the Court's attention to the document D-655, at page 108 of the document book, Exhibit GB-231, which is a record in Raeder's handwriting of his interview with Hitler on the 6th of January, 1943, which led to Raeder's retirement. I am merely proposing to read the fifth paragraph, in which Raeder records:

"If the Fuehrer was anxious to demonstrate that the parting was of the friendliest and wished that the name Raeder should continue to be associated with the Navy, particularly abroad, it would perhaps be possible to make an appointment to General Inspector, giving appropriate publicity in the press, etc. But a new C. in C. Navy with full responsibility for this office must be appointed. The position of General Inspector, or whatever it was decided to call it, must be purely nominal."

"Hitler," the report reads, "accepted this suggestion with alacrity. The General Inspector could perhaps carry out special tasks for him, make tours of inspection, etc. The name of Raeder was still to be associated with the Navy. After C. in C. Navy had repeated his request, the Fuehrer definitely agreed to 30th January as his release date. He would like to think over the details."

This was Raeder's twilight, and indeed a very different occasion from the period of his ascendancy in 1939, when on the 12th March Raeder spoke on the occasion of the German Heroes Day. I now refer the Court to the final document on Raeder, an account of that speech in March, 1939, which is at page 103 of the document book, in the document D-653, Exhibit GB-232. The

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first paragraph reads:

"Throughout Germany solemnities took place on the occasion of Hero Commemoration Day. On March 12, 1939, these solemnities were combined for the first time with the celebration of the freedom to rearm. The day's chief event was the ceremony held in the Berlin State Opera House in Unter den Linden. In the presence of Hitler and representatives of the Party and Armed Forces, General Admiral Raeder made a speech, extracts of which are given below."

I turn to page 2 of the record, page 104 of the document book, to about the fifteenth line.

"National Socialism," says Raeder, "which originates from the spirit of the German fighting soldier, has been chosen by the German people as its ideology. The German people follow the symbols of its regeneration with the same great love and fanatical passion. The German people has had practical experience of National Socialism and it has not been imposed, as so many outside critics believe. The Fuehrer has shown his people that in the National Socialist racial community lies the greatest and invincible sources of strength, whose dynamic power ensures not only peace at home, but also enables to make use of all the Nation's creative powers."

There follow eulogies of Hitler, and a few sentences below.

"This is the reason for the clear and unsparing summons to fight Bolshevism and international Jewry, whose race-destroying activities we have sufficiently experienced on our own people. Therefore, the alliance with all similar minded Nations who, like Germany, are not willing to allow

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their strength, dedicated to construction and peaceful work at home to be disrupted by alien ideologies as by parasites of a foreign race."

Then a few sentences on:

"If later on we instruct in the technical handling of weapons, this task demands that the young soldier should also be taught National Socialist ideology and the problems of life. This part of the task, which becomes for us both a duty of honor and a demand which cannot be refused, can and will be carried out if we stand shoulder to shoulder and in sincere comradeship to the Party and its organization."

The next sentence:

"The armed forces and the Party thus became more and more united in attitude and spirit."

And then just two sentences on the next page:

"Germany is the protectors of all Germans within and beyond our frontiers. The shots fired at Almeria are proof of that."

That refers, of course, to the bombardment of the Spanish town of Almeria, carried out by a German naval squadron on the 31 May 1937 during the course of the Spanish Civil War.

There are further references to the Fuehrer and his leadership, and then a final sentence of the first paragraph of page 3:

"They all planted into a younger generation great tradition of death for a holy cause, knowing that their blood will lead the way towards the freedom of their dreams."

My submissions is that that speech of Raeder's is the final proof of his deep personal involvement in the Nazi conspiracy. There is the mixture of heroics and fatalism that led millions of Germans to slaughter. There are boasts of violence used on the people of Almeria. There is the lip service to peace by a man who planned conquest. "Armed forces and party have become more and more united in attitude and spirit" - there is the authentic Nazi voice. There is the assertion of racialism. Finally, there is the anti-Semitic gesture, Raeder's contribution to the outlook that produced Belsen. Imbued with these ideas became an active participant on both the political and military level in the Nazi conspiracy

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to wage wars of aggression and to wage them ruthlessly.

MR. ALBRECHT: May it please the Tribunal, the United States will continue with the presentation, showing the individual responsibility of the defendant von Schirach. It will be made by Captain Sprecher.

CAPTAIN SPRECHER: May it please the Tribunal, It is my responsibility to present the individual responsibility of the defendant Schirach for crimes against the peace, war crimes and crimes against humanity as they concern directly the common plan or conspiracy.

The prosecution contends that the defendant Schirach is guilty of having exercised a leading part in the Nazi conspiracy from 1925 until the Nazi downfall.

The conspiratorial acts and the criminality of the defendant Schirach may be grouped for purposes of convenience into three principal phases: (1) his early support of the conspirators over the period 1925-1929; (2) his leadership and direction of German youth over the period 1929-1945; (3) his leadership of the Reichgau Vienna as chief representative of the Nazi Party and the Nazi State in Vienna for the period July 1940 to 1945. This presentation will take up each of these principal phases after a brief listing of all the principal positions held by Schirach in both the Nazi Party and the Nazi State between 1928 and 1945.

In presenting first a listing of the positions held by Schirach, it is not intended immediately to describe the functions of each of these positions. Insofar as a description of the functions of any particular position is still felt necessary at this stage of the trial, it will be given later during the discussion of Schirach's conspiratorial acts as Nazi youth leader and as Nazi official in Vienna.

(DOCUMENTATION)

For the consideration of the Tribunal, we have submitted a brief on this subject. The Document Book contains English translations of 29 documents. Although we feel that we have reduced the number of documents to the minimum, the document book is still large. But Schirach's subversion of German youth to the conspirators' purposes, even apart from his other acts, is indeed a large and important aspect of the conspiracy.

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Most of these documents are from German publications, of which the Tribunal can take judicial notice. Therefore, in most cases, it is intended only to paraphrase from these documents unless the Tribunal requests fuller treatment in a particular instance.

If this course proves agreeable to the Tribunal, the presentation should be relatively short, even though Schirach's name has not thus far entered the earlier record as frequently as that of some other defendants.

Before passing to the proof, I want to express my appreciation particularly to Major Hartley Murray, Lt. Fred Niebergall, and Mr. Norbert Heilpern for their assistance in research, analysis, translation, and organization of these materials.

Schirach agrees he held the following positions: They are found in two affidavits, and one affidavit of report dated December, 1945, which is Document 3302-PS, document book, page 110.

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I want to offer that affidavit as USA Exhibit 665. The certificate, which I will only rely on for one point, is Document 2973-PS. It is already in evidence as USA Exhibit 14.

Turning first to Document 3302-PS: This affidavit shows that Schirach was a member of the Party from 1925 to 1945; that he was a leader of the National Socialist Student League from 1929 to 1931; that he was leader of the Hitler Youth Organization from 1931 to 1940. In 1931 and 1932 Schirach was Reich Youth Leader on the staff of the SA Supreme Command, where at that time all Nazi youth organizations were centralized. Also, Schirach was Reich Youth Leader of the NSDAP from 1931 to 1940.

In 1932 Schirach became an independent Reich Leader (Reichsleiter) in the Party. Upon acquiring this relatively independent position, he no longer remained on the staff of the SA Supreme Command, since Nazi youth affairs thereafter, with the creation of the Reich Youth Leadership, were directly subordinate to Hitler with Schirach at the helm. We had that kind of a condition existing in the Party where, under the leadership principle, at the pinnacle you had one man, Schirach, and you no longer had the youth affairs underneath the SA. However, within the SA, Schirach retained the rank and the title of a Gruppenfuehrer throughout the period from 1931 to 1941, and in that year, 1941, he was elevated to the rank of an SA Obergruppenfuehrer, a rank which Schirach continued to hold in the SA until the collapse.

Schirach was Reich Leader of Youth Education in the NSDAP from 1932 until the collapse. In other words, from before the Nasiz came to state power until the final downfall,this Defendant held the high position of a Reichsleiter, a Reich Leader, inside the Party.

Now, in addition to these positions in the Party, Schirach held the following positions in the Nazi state:

Reich Youth Leader, 1933 to 1940; Reich Governor (Reichsstatthalter) of the Reichsgau Vienna, 1940 to 1945; Reich Defense Commissioners of Vienna, 1940 to 1945.

Now, although Schirach gave up some of his positions with respect to

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the leadership of German youth in 1940, when he accepted these positions in Vienna, he still continued to hold after that time the Party position of Reich Leader for Youth Education in the NSDAP. Moreover, he was given a very special position Deputy to the Fuehrer for the Inspection of the Hitler Youth, the organization which he, of course, had held until 1940. He continued in these last two positions until the downfall.

The certificate, Document 2973, the only thing I rely on there in this particular presentation is to show that Schirach was a member of the Reichstag from 1932 to 1945.

We next take up something that --

THE PRESIDENT: Captain Sprecher, you are going a little bit too fast for us to follow the documents.

CAPT. SPRECHER: Yes, sir. We next take up acts showing that Schirach actively promoted the NSDAP and its affiliated youth organizations before the Nazis seized power. Schirach was an intimate and a servile follower of Hitler from the year 1925. In that year, when he was only 18 years old, Schirach joined the Nazi conspirators by becoming a member of the Party. Upon special request of Hitler, he went to Munich to study Party affairs. He became active in converting students to National Socialism. I am paraphrasing there, your Honors, from par. 2 of Schirach's own affidavit, 3302-PS, found at page 110 of the Document.Book.

Now, this was the start of conspiratorial activities which Schirach thereafter continued for two decades in a spirit of unbending loyalty to Hitler and to the principles of National Socialism. Hitler's early personal attentions to this Defendant bore fruit for the conspirators, and we find Schirach's stature in the Party circles rapidly growing through these early years.

In 1929 Schirach was made National leader of the entire National Socialist German Students League. He retained this position for two years, until 1931. Document 3464-PS, Document Book, page 121, is an extract from the 1936 Edition of the Party Manual, US Exhibit 666, which I would like to offer in evidence. This makes it clear that the purposes of the Nazi Students League were the ideological and political conversion of students in universities and technical schools to National Socialism.

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After 1931 Schirach devoted his full time to Party work. Schirach was elected a Nazi member of the Reichstag in 1932, and therefore he played his part in the unparliamentary conduct of the Nazi Reichstag members during the last months of the existence of the Reichstag as an independent instrument of government.

Some of the best evidence concerning Schirach's support of the conspiracy in its early stages comes from Schirach's own words in his book "The Hitler Youth." Excerpts from this book are found in Document No.1458-PS, Document Book page 1. It is offered in evidence as USA Exhibit 667. Now, since this book, your Honors , covers many years and many topics, I shall be required to refer to it occasionally later on.

An example of Schirach's servile loyalty to Hitler during the early years is found at page 17 of this book, page 12 of your Document Book. He writes of his early years of Party activity as follows:

"We were not yet able to account for our conception in detail. We simply believed. And when Hitler's book, 'Mein Kampf', was published, it was our bible, which we almost learned by heart in order to answer the questions of the doubters and superior critics. Almost everyone today who is leading youth in a responsible position joined us in those years."

Before 1933 Schirach moved throughout Germany leading demonstrations, summoning German youth to membership in the Hitler Youth. When the Hitler Youth and the waring of its uniform were forbidden by law, Schirach continued his activities by illegal means. Of this period he himself writes, at page 26 of his book on "The Hitler Youth", pages 16 and 17 of your Document Book, as follows:

"At this time the HJ (the Hitler Jugend) gained its best human material. Whoever came to us during this illegal time, boy or

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girl, risked everything. With pistols in our pockets we drove through the Ruhr district while stones came flying after us. We jumped every time we heard a bell ring, because we lived in constant fear of arrests and expected our houses to be searched."

At page 27 of the same book, page 18 of your Honors' Document Books, Schirahh indicates that in the early intra-Party fight between Hitler and Strasser, Schirach clung steadfastly to the Hitler clique, and then, in discussing Strasser, he exchanged his confidences only with the Defendant Streicher. It is hardly necessary to argue that such an intimate of the Fuehrer himself was advised from the beginning of the general purposes, plans, and methods of the conspiracy.

As an interesting sidelight, I believe one of those conferences, you will note, took place in Schirach's apartment in Munich, and that Hitler used to come there occasionally.

Schirach was the leading Nazi conspirator in destroying all independent youth organizations and in building the Nazi youth movement. In connection with this point, the attention of the Tribunal is invited to the brief of the United States Chief of Counsel entitled "The Reshaping of Education: Training of Youth", which was written for the United States Chief of Counsel by Major Hartley Murray, and to the documents cited therein under the section headed "b". "The Nazi conspirators Supplemented the School System by Training Youth through the Hitler Jugend." These documents were offered in evidence in Document Book "D" in the earlier phase of this trial. The attention of the Tribunal is also called to the motion picture "The Nazi Plan", which was shown before the Tribunal on the 11th of December, insofar as that film involved the Defendant Schirach and his Hitler Youth organization. Occasions when Schirach's activities are shown in this film are noted in Document No.3054-PS, the index and the guide to this film, which is already in evidence as US Exhibit 167.

It was the task of Schirach to perpetuate the Nazi regime through generations by poisoning the minds of youth with Nazi ideology and preparing youth for aggressive war. This poisoning will long outlive the defendant. Indeed, one of the principal purposes of this exposure must be to

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bring to those German youths who survived the Nazi-created catastrophe a true picture of this man whom Nazi propaganda presented as a great youth hero; a man against whom the living breath of free criticism and the truth itself could make no answer before German youth or before the German people for more than ten years.

Again from Schirach's own hand in his book, "The Hitler Youth", we have crystal-clear evidence concerning the methods and the tactics employed by this defendant in his destruction of independent youth organizations and their incorporation into the Hitler Youth. At page thirty-two, pages nineteen and twenty of Your Honors' document books, Schirach states that in 1933 the new cabinet ministers were too over-burdened to solve the youth question by their own initiative; that therefore he, Schirach, then leader ofthe Hitler Youth, commissioned confederates to lead fifty members of the Berlin Hitler Youth in a surprise raid on the Reich Committee of German Youth Organizations. This raid resulted in destroying the Reich Committee, and in its absorption within the Hitler Youth. This raid was closely followed by a second surprise raid of like success upon the Youth Hostels Organization, page thirty-three "The Hitler Youth", found at pages twenty and twenty-one of the document book.

Now, after these successful showings of force and terror Schirach's star climbed higher. He was appointed youth leader of the German Reich in June 1933 in a solemn ceremony before Hitler. Concerning his next steps, Schirach writes at pages thirty-five and thirty-six of his book, page twenty-two of the document book, as follows:

"The first thing I did was to dissolve the Greater German League. Since I headed all German youth organizations and I had the right to decide on their leadership, I did not hesitate for a moment to take this step which was for the Hitler Youth the elimination of un unbearable state of affairs."

Schirach accomplished the dissolution and destruction of most youth organizations by orders which he issued and signed as youth leader of the German Reich. This is shown by the orders contained in Document No. 2229-BS, your document book, page sixty-five, which is offered in evidence as U.S. Exhibit 66.

THE PRESIDENT: You must go more slowly; the translation isn't coming through as quickly. If you could pause at the end of those sentences in order

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to let the translation come through.

CAPTAIN SPRECHER: Yes, sir.

By this one order of Schirach nine youth organizations were dissolved, including the Boy Scout movement.

The Protestant and Catholic youth organizations were the last to be destroyed and absorbed by the Hitler Youth. Schirach accomplished the absorption of the Protestant youth organization by agreement with the Hitler-appointed Reich Bishop Ludwig Mueller, page thirty-eight of "The Hitler Youth", page twenty-four of the document book. Schirach's objective in forcing all German youth into the Hitler Youth was finally accomplished in December 1936 by the basic law on the Hitler Youth.

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document No. 1392-PS is a decree, 1936, Reichsgesetzblatt, Part I, page 993, of which, of course, the Tribunal may take judicial notice. This law declared in part, and Your Honors, I read from this because it shows so clearly the future tasks of what was to happen and what was already happening in German youth under Schirach.

THE PRESIDENT: Is it set out in the document book?

CAPTAIN SPRECHER: Yes, sir.

THE PRESIDENT: What page?

CAPTAIN SPRECHER: It is Document No. 1392-PS. It is at page six of your document book.

"The future of the German nation depends on its youth, and German youth shall have to be prepared for its future duties. All of the German Youth in the Reich is organized within the Hitler Youth. The German youth, besides being reared within the family and school, shall be educated physically, intellectually, and morally in the spirit of National Socialism to serve the people and the community through the Hitler Youth. The task of educating the German youth through the Hitler Youth is being entrusted to the Reich Leader of German Youth in the NSDAP."

The first executive order on this basic law concerning the Hitler Youth was issued on the 25th of March 1939. If you refer to page forty of your Document Books --. This decree, 1939, Reichsgesetzblatt, Part I, page 709, among other points confirms the exclusive nature of Schirach's responsibility concerning German youth. I will quote only one sentence.

"The Youth Leader of the German Reich is solely competent for all missions of the physical, ideological, and moral education of the entire German youth outside of the house of the parents and the school."

THE PRESIDENT: Captain Sprecher, I think you have told us enough now to satisfy us that von Schirach was in charge of the ideological education of German youth and completely in charge of it.

CAPTAIN SPRECHER: Yes, sir.

THE PRESIDENT: And we don't desire to hear any more of it.

CAPTAIN SPRECHER: I understand.

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In exercising his far-reaching control over German youth, Schirach naturally relied on the common technics of the Nazi conspirators, including the leadership principle, the nature of which has already been established before this Tribunal. The Tribunal will find a galling glorification and explanation of the leadership principle as it was applied to German youth in Schirach's book, "The Hitler Youth", at page sixty-eight, translated at page thirty-two of the document book. I won't read from that.

In his affidavit, document No. 3302-PS, paragraph five, Schirach states:

"It was my task to educate the youth in the aims, ideology, and directives of the NSDAP, and beyond this to direct and to shape them."

Naturally, Schirach established and directed an elaborate propaganda apparatus to accomplish a thorough-going poisoning of the minds of German youth. Document No. 3349-PS, your Document Book page 149, offered in evidence as U.S. Exhibit 666.

THE PRESIDENT: Page 149?

CAPTAIN SPRECHER: Yes, sir.

THE PRESIDENT: I have only got page 124.

CAPTAIN SPRECHER: I am sorry; it is 114. It is a typographical error.

This is an excerpt from pages 452 and 453 of the 1936 edition of the Party Manual. This document will show that the Reich Youth leadership, Reichsjungendfuehrung, of the NSDAP, prepared and published numerous periodicals ranging from a daily press to monthly magazine. This document also shows that the propaganda office of the Hitler Youth maintained through liaison agents a political and ideological connection, with a propaganda office of the NSDAP and with the Propaganda Ministry, both of which of course were headed by the conspirator Goebbels.

Schirach shares with the conspirator Dr. Robert Ley, Reichs organizationsleiter of the NSDAP, the responsibility for the establishment and general administration of the Adolf Hitler Schools. This is shown

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by a joint statement of Ley and Schirach in the year 1937, which is found in the Document Book at page 100. It is our document 2653-PS, offered in evidence as U.S.A. Exhibit 669. This document shows that these Adolf Hitler Schools were open free of charge to outstanding and proven members of the Young Folk, the junior section of the Hitler Youth organization. It further shows that the object of these schools was the building of youthful leadership for the Nazi Party and the Nazi State apparatus.

Schirach extended his education of German youth into the field of law and the legal profession even though these fields were principally under the control of the Defendant Frank. Proof is found in document No. 3459-PS, page 120 of the document book. This is a one-page extract from an account of the Congress of German Law in 1939. It is offered as U.S. Exhibit 670. This document shows that beyond purely technical education in law it was considered by the conspirators to be the task of the Party to exercise influence upon the ideological conceptions of the Young Law Guardians League. This league was a junior organization of the National Socialist Law Guardians League, a Nazi-controlled organization of lawyers.

Now, at this Congress to which the document refers an official of the Youth Law Guardians required that ignorance of the simplest legal principles could best be fought within the Hitler Youth and that therefore the legal eduction program of the Hitler Youth was to receive the broadest support.

Obergebietsfuehrer Axmann, the subordinate of Schirach at that time, and who in 1940 was to succeed him as leader of the Hitler Youth, was at that time -- namely, May, 1939 -- appointed the chairman of a Youth Legal Committee for the establishment of the Youth Law. He was appointed by the Defendant Frank.

THE PRESIDENT: Captain Sprecher, I don't think I made it quite clear -- that the Tribunal is not really interested in these details by which the Defendant, von Schirach, acquired his power over the German Youth. You have told us sufficient to establish in our minds, so far at any rate, that he managed to get absolute command over the German Youth. The only think that seems to me to be pertinent at the pres ent stage is whether or not you can show us any direct evidence that the Defendant, Schirach, was a party to the aggressive aims of the Reich leaders or to any war crimes or to any crimes against humanity. Unless you can show us that, your address to us is really not useful to us at this stage.

CAPTAIN SPRECHER: I plan to take up directly, your Honor, the question of the militarization of youth. I did want to make one reference at this point to the relation of the Hitler Youth to the League for Germandom Abroad, it that is satisfactory to your Honor.

THE PRESIDENT: The League for Germandom Abroad?

CAPTAIN SPRECHER: Yes, sir.

THE PRESIDENT: Well, that may bear on the aggressive aims of the Reich Leaders.

CAPTAIN SPRECHER: Schirach extended the influence of the Hitler Youth beyond the borders of Germany by means of cooperation between the Hitler Youth and the League for Germandom Abroad, the VDA. This is proven by an agreement made in 1933 between Schirach and leaders of the VDA which is contained in Document L-360-H, Document Book page 3. This is offered in evidence as U.S. Exhibit 671.

Now, Schirach discusses in his book, "The Hitler Youth," under the chapter heading, "Work Abroad" (that is Chapter 4 of the book, pages 34 to 38

of the Document Book) some of the connections of the Hitler Youth with such Nazi ideas as lebensraum, colonial policy.

I won't read from that, since it also covers to a certain extent --

THE PRESIDENT: Did it talk about "lebensraum"?

CAPTAIN SPRECHER: It actually used the word, "lebensraum. At page 36 of the document there is reference made to the "Ostraum," space in the East --

THE PRESIDENT: I thought the document you were dealing with was L-368 on page 3.

CAPTAIN SPRECHER: I am sorry. I had gone on from there, to speak about Schirach's book.

THE PRESIDENT: Oh.

CAPTAIN SPRECHER: Document 1458, PS, and I had mentioned that at pages 34 to 38 of that book there were references concerning the Nazi ideas of colonial policy and lebensraum, and that this book by Schirach indicated that the Hitler Youth received its funds for spreading those ideas.

THE PRESIDENT: That is page 36?

CAPTAIN SPRECHER: Yes, page 36 of the Document Book.

He uses the word, "ostraum" in speaking of space in the East, and he discusses German Youth organizations abroad and the German schools in these countries. And then I wish particularly to point out on page 37 the following sentence, since you have asked about this -- it is near the bottom of page 37; typewritten page 24 of the original document, if that helps --

THE PRESIDENT: Page 37 or --

CAPTAIN SPRECHER: It is page 37 of the Document Book which is not consecutive all the way through, but page 24 of this document 1458, in the English translation.

"(Reading) It will be taken into consideration concerning this schooling that the Guardian Line of German population policy which aims at the utilization of the space in the

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East will not be violated."

Now, in concluding the question of the ideological significance of the Hitler Youth, I would like to ask your indulgence while I make a short quotation from that master ideological leader, the Defendant, Alfred Rosenberg, found in Document 130-PS, your Document Book page 122, which is offered as U.S. Exhibit 672. Rosenberg was making an answer to some inquiries of the Defendant, Bormann, about the expediency of initiating some legal proceedings against the Churches in 1939. Rosenberg replied apparently in closing an article which he had written the year before, and it is from this article that I wish to quote:

"We have made quite some progress in carrying the N.S. ideology to German Youth. What there is still left of Catholic Youth are only small groups, which will be absorbed as time goes on. The Hitler Youth is the absorbing sponge which nobody can resist. Furthermore, our program for education in all categories of our schools has been built up already with such an anti-Christian and anti-Jewish tendency that the generation growing up now will be safe from the black "swindle."

That is on pages 122 and 123. The quotation is from page 123. The document begins at page 122 -- all underlined in red. I use that extract, your Honor, in connection with the expectancy of these conspirators themselves with respect to the Hitler Youth and what it was to do to the mind of young Germans.

Now, the conspirators devoted a great deal of energy to the perpetuation of their scheme of things by selecting and training successors for Nazi leadership, selecting and training and acquiring active Nazis for the rank and file of the NSDAP and its affiliated organizations, including the SA and the SS which are alleged here to be criminal organizations.

A number of orders issued by the Party Chancellory under the heading, "Successor Problems," show the dominant part assumed by Schirach and his Hitler Youth in this field. Our Document No. 3348-PS, Selections from Volume I of the Decrees, Regulations and Announcements of the Party Chancellory, already marked in evidence as U.S. Exhibit 410, contains some of these orders, which I won't take the time to read. However, they are all contained in page 113 of

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your Document Book.

Only Hitler Youth members who distinguished themselves were to be admitted to the Party. Nazi leaders were directed to absorb full-time Hitler Youth leaders into their staffs so as to offer them practical experiences and thus secure necessary successors in the Leadership Corps. This pivotal and central functions of the Hitler Youth in the domination of German life by the Party is also shown at pages 80 and 81 of the 1938 Party Manual, U.S. Exhibit 430, found at page 74 of the Document Book.

THE PRESIDENT: That last page, page 113, does that refer to any of the matters to which I drew your attention? It is simply the organization of the youth; it has nothing to do with any criminal aims.

CAPTAIN SPRECHER: Your Honor, it certainly is the contention of the Prosecution that any man who took an active part in furnishing, for these criminal organizations, young members committed a crime.

THE PRESIDENT: I quite understand that, and that is why I told you that we were satisified that so far you had shown--subject, of course, to what the Defendant von Schirach might be able to show--that he has acquired and was the leader of the German youth. The only things we want to hear about at this stage is whether he was a party to the schemes for aggressive war, to war crimes, or to crimes against humanity. That is what we want to hear, and we don't want to hear anything else.

CAPTAIN SPRECHER: Your Honors, may I pass, then, to the connection of the Hitler Youth to the SS. Document 2396-PS, which is found at page 69 of the Document Book--which is offered as USA Exhibit 673--has a quotation in it concerning the Streifendienst of the Hitler Youth, the Streifendienst being the patrol service, a type of self-police organization of the Hitler Youth. The quotation which I intend to read will indicate how this organization became the principal supplier of the SS.

Are Your Honors interested in having me read that quotation concerning the Hitler Youth as the main source of the SS?

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THE PRESIDENT: Yes, perhaps; I haven't read it.

CAPTAIN SPRECHER: This document is an agreement between Schirach and Himmler. It was concluded in October 1938. It bears, I think, partial quoting:

"Organization of the Streifendienst.

"1. Since the Streifendienst in the Hitler Youth has to perform tasks similar to those of the SS for the whole movement, it is organized as a special unit for the purpose of securing recruits for the general SS. However, as much as possible, recruits for the SS Special Troops, for the SS Death Head Units, and for the officer candidate schools, should also be taken from these formations."

I am skipping down now to 4-a, the second part, which is underlined in red in your book:

"The selection of Streifendienst members is made according to the principles of racial selection of the Schutzstaffel. The competent officials of the SS, primarily unit leaders, race authorities, and SS physicians, will be consulted for the admission tests."

Skipping to 5:

"To insure from the beginning a good understanding between Reich Youth Leadership and Reich SS Leadership, a liaison office will be ordered from the Reich Youth Leadership to the SS Main Office starting 1 October 1938. The appointment of other leaders to the SS sections is a subject for afuture agreement."

Then, going down to what I think is the most striking quotation, Your Honor, 6:

"After the organization is completed, the SS takes its replacement primarily from these Streifendienst members. Admission of youths of German blood who are not members of the Hitler Youth is then possible only after information and advice of the competent Bann Leader."

Now, the Bann leader referred to there was the local leader of the Hitler Jugend, and without his consent no one could go into the SS in the future after that agreement was made, which was in October 1938.

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Now, the second agreement which Schirach made with Himmler was made in December 1938. It is found in our Document Book, No. 2567, page 98 of the Document Book. It is offered in evidence as USA Exhibit 674. It states that the Farm Service of the Hitler Youth "is, according to education and aim, particularly well suited as a recruiting agency for the SS, General SS and the armed section of the SS, SS Special Troops, and SS Death Head battalions."

The agreement concludes by stating that Farm Service members of the Hitler Youth who pass the SS admission tests will be taken over by the SS immediately after leaving the Hitler Youth Farm Service.

I might point out to Your Honors that this meant that after that time any Hitler Youth member who was in the Farm Service was obliged to go into the SS.

And now, to come directly to the point you have been inquiring about, Your Honor:

Throughout the six years of Nazi political control over Germany before the launching of aggressive war, Schirach was actively engaged in militarizing German youth. From the beginning, the Hitler Youth was set up along military lines with uniforms, ranks, and titles. It was regimented and led in military fashion under the leadership principle.

If your Honors will take any edition whatsoever of the Organization Book, the Party Manual, and turn to the table, beginning with Table 54, and leaf through the book, you will see the very striking insignia of the Hitler Youth and how much it compares to what the normal military insignia were. You will further notice that one of the most prominent insignia is an "S" of the same type that the Nazis used with respect tothe SS. You will notice that part of the uniform was a long knife.

THE PRESIDENT: Isn't that all a part of what they are pleased to call the Nazi ideology? I mean, the Fuehrership principle, military training?

CAPTAIN SPRECHER: There is a relation between

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all of these things, perhaps, and the leadership principle, because the leadership principle dominated absolutely every aspect of German life. However, Your Honors, I suggest that showing to you, in this graphic means, the similarity between the uniform of the Hitler Youth and military uniforms has some bearing upon the preparation foraggressive wars, about which I am further to speak in just a moment.

Now, Document 2654-PS, found at page 162 of your Document book --

THE PRESIDENT: (interposing): One what?

CAPTAIN SPRECHER: Number 102. There is a whole book given over to just this question of the organization and the insignia of the Hitler Youth.

The Tribunal will see how the Hitler Youth was divided into branches or divisions which were very similar to military divisions.

That document is offered as USA Exhibit 675. I will refer no further to it.

Now, in a speech in February, 1938, when the conspirators had already dropped some of the camouflage which surrounded their early military preparations for the wars which we have recently suffered, Hitler discussed the military training of the Hitler Youth in the Voelkischer Beobachter of the 21st of February, 1938. This is our Document 2454-PS, found at page 97 of the Document Book. It is offered as USA Exhibit 676.

Hitler there said that thousands of German boys had received specialized training through the Hitler Youth in naval, aviation, and motorized groups, and that over 7,000 instructors had trained more than one million Hitler Youth members in rifle shooting. That was February, 1938, shortly before the Anschluss. Note the progress of military training within the Hitler Youth between then and August 1939, just one month before the invasion of Poland.

At that time the Defendant Schirach and the Defendant Keitel, as Chief of the High Command, entered into another one of those informative agreements, which many of these defendants like to make among themselves. It is Document No. 2398-PS, your Document Book page 72. It is offered as USA Exhibit 677. It is taken from "Das Archiv" which, in introducing the actual agreement, declared that this agreement was "the result of close cooperation" between Schirach and Keitel.

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The agreement itself states, in part:

"While it is exclusively the task of the Hitler Youth to attend to the training of their units in this direction, it is suitable, in the sense of a uniform training corresponding to the demands of the Wehrmacht, to support the leadership of the Hitler Youth for their responsible task as trainers and educators in all fields of training for defense by special courses."

And then, skipping down towards the end, you will note this quotation within the agreement: "A great number of courses are in progress."

Your Honor, if I may take about five minutes, I can finish this one section on the aggressive war phase.

THE PRESIDENT: Very well.

CAPTAIN SPRECHER: Whereas Hitler, in February, 1938, mentioned that 7,000 Hitler Youth leaders were engaged in training German youngsters in rifle shooting, Schirach and Keitel, in their agreement of August, 1939, note the following:

"Thirty thousand Hitler Youth leaders are already being trained annually in field service. The agreement with the Wehrmacht gives the possibility of roughly doubly that number. The billeting and messing of the Hitler Youth leaders is done, according to the regulations for execution already published, in the barracks, drill grounds, etc., of the Wehrmacht, at a daily cost of 25 pfennigs."

Just as Schirach dealt with the head of the SS in obtaining zealous recruits for organized banditry and the commission of atrocities, so also he dealt with the head of theWehrmacht in furnishing young men as human grist for the mill of aggressive war.

The training of German youths runs through the Nazi conspiracy as an important central thread. It is one of the manifestations of Nazism which has shocked the entire civilized world. The principal responsibility for the planning and execution of the Nazi youth policy falls upon this defendant.

I wish to take merely one sentence from his own affidavit, paragraph 5, Document No. 3302-PS, so that there can be no doubt before this Tribunal or before the world, indeed, as to this Defendant's own feeling of responsibility:

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"I feel myself responsible for the policy of the youth movement in the Party and later within the Reich." I underline the phrase "I feel myself responsible."

Your Honor, that is a convenient breaking point before coming to a discussion of Schirach's connection to war crimes and crimes against humanity.

THE PRESIDENT: Very well.

(Whereupon, at 1700 hours the hearing of the Tribunal adjourned, to reconvene at 1000 hours on 16 January 1946).